

AN ACT

relating to state and certain local fiscal matters; making appropriations.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 103.051(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) To apply for compensation under this subchapter, the claimant must file with the ~~[judicial section of the]~~ comptroller's judiciary section [office]:

(1) an application for compensation provided for that purpose by the comptroller;

(2) a verified copy of the pardon or court order justifying the application for compensation; ~~and~~

(3) a statement provided by the Texas Department of Criminal Justice verifying the length of incarceration; and

(4) a certification of the claimant's actual innocence of the crime for which the claimant was sentenced that is signed by the attorney representing the state in the prosecution of felonies in the county in which the sentence was rendered.

SECTION 2. Section 14(e), Article 42.12, Code of Criminal Procedure, as added by Chapter 1188, Acts of the 76th Legislature, Regular Session, 1999, is amended to read as follows:

(e) The clerk of a court that collects a fee imposed under Subsection (c)(2) shall remit the fee to the comptroller not later

1 than the last day of the month following the end of the calendar
 2 quarter in which the fee is collected, and the comptroller shall
 3 deposit the fee into the general revenue fund. If the clerk does
 4 not collect a fee imposed under Subsection (c)(2), the clerk is not
 5 required to file any report required by the comptroller relating to
 6 the collection of the fee. In requiring the payment of a fee under
 7 Subsection (c)(2), the judge shall consider fines, fees, and other
 8 necessary expenses for which the defendant is obligated in
 9 establishing the amount of the fee. The judge may not:

10 (1) establish the fee in an amount that is greater than
 11 25 percent of the defendant's gross income while the defendant is a
 12 participant in residential aftercare; or

13 (2) require the defendant to pay the fee at any time
 14 other than a time at which the defendant is both employed and a
 15 participant in residential aftercare.

16 SECTION 3. Section 19(f), Article 42.12, Code of Criminal
 17 Procedure, is amended to read as follows:

18 (f) A community corrections and supervision department
 19 shall remit fees collected under Subsection (e) of this section to
 20 the comptroller not later than the last day of the month following
 21 the end of the calendar quarter in which the fee is collected. The
 22 comptroller shall deposit the fee in the special revenue fund to the
 23 credit of the sexual assault program fund established under Section
 24 44.0061, Health and Safety Code. If the department does not collect
 25 a fee imposed under Subsection (e), the department is not required
 26 to file any report required by the comptroller relating to the
 27 collection of the fee.

SECTION 4. Sections 42.259(c), (d), and (f), Education Code, are amended to read as follows:

(c) Payments from the foundation school fund to each category 2 school district shall be made as follows:

(1) 22 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of September of a fiscal year;

(2) 18 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of October;

(3) 9.5 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of November;

(4) 7.5 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of April;

(5) five percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of May;

(6) 10 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of June;

(7) 13 percent of the yearly entitlement of the district shall be paid in an installment to be made on or before the 25th day of July; and

(8) 15 percent of the yearly entitlement of the district shall be paid in an installment to be made after the fifth

1 day of September and not later than the 10th day of September of the
2 calendar year following the calendar year of the payment made under
3 Subdivision (1) [~~on or before the 25th day of August~~].

4 (d) Payments from the foundation school fund to each
5 category 3 school district shall be made as follows:

6 (1) 45 percent of the yearly entitlement of the
7 district shall be paid in an installment to be made on or before the
8 25th day of September of a fiscal year;

9 (2) 35 percent of the yearly entitlement of the
10 district shall be paid in an installment to be made on or before the
11 25th day of October; and

12 (3) 20 percent of the yearly entitlement of the
13 district shall be paid in an installment to be made after the fifth
14 day of September and not later than the 10th day of September of the
15 calendar year following the calendar year of the payment made under
16 Subdivision (1) [~~on or before the 25th day of August~~].

17 (f) Except as provided by Subsection (c)(8) or (d)(3), any
18 [~~Any~~] previously unpaid additional funds from prior years owed to a
19 district shall be paid to the district together with the September
20 payment of the current year entitlement.

21 SECTION 5. Section 44.901, Education Code, as amended by
22 Chapter 573, Acts of the 77th Legislature, Regular Session, 2001,
23 is amended to read as follows:

24 Sec. 44.901. ENERGY SAVINGS PERFORMANCE CONTRACTS [~~OR WATER~~
25 ~~CONSERVATION MEASURES~~]. (a) In this section, "energy savings
26 performance contract" means a contract for energy or water
27 conservation measures to reduce energy or water consumption or

1 operating costs of school facilities in which the estimated savings
2 in utility costs resulting from the measures is guaranteed to
3 offset the cost of the measures over a specified period. The term
4 includes a contract for the installation or implementation of:
5 ~~[The board of trustees of a school district may enter into a~~
6 ~~contract for energy or water conservation measures to reduce energy~~
7 ~~or water consumption or operating costs of school facilities in~~
8 ~~accordance with this section.]~~

9 ~~[(b) A contract to which this section applies includes a~~
10 ~~contract for the installation of:]~~

11 (1) insulation of a ~~[the]~~ building structure
12 ~~[structures]~~ and systems within the building;

13 (2) storm windows or doors, caulking or
14 weatherstripping, multiglazed windows or doors, heat absorbing or
15 heat reflective glazed and coated window or door systems, or other
16 window or door system modifications that reduce energy consumption;

17 (3) automatic energy control systems, including
18 computer software and technical data licenses;

19 (4) heating, ventilating, or air-conditioning system
20 modifications or replacements that reduce energy or water
21 consumption;

22 (5) lighting fixtures that increase energy
23 efficiency;

24 (6) energy recovery systems;

25 (7) electric systems improvements;

26 (8) water-conserving fixtures, appliances, and
27 equipment or the substitution of non-water-using fixtures,

1 appliances, and equipment;

2 (9) water-conserving landscape irrigation equipment;

3 (10) landscaping measures that reduce watering
4 demands and capture and hold applied water and rainfall, including:

5 (A) landscape contouring, including the use of
6 berms, swales, and terraces; and

7 (B) the use of soil amendments that increase the
8 water-holding capacity of the soil, including compost;

9 (11) rainwater harvesting equipment and equipment to
10 make use of water collected as part of a storm-water system
11 installed for water quality control;

12 (12) equipment for recycling or reuse of water
13 originating on the premises or from other sources, including
14 treated municipal effluent;

15 (13) equipment needed to capture water from
16 nonconventional, alternate sources, including air conditioning
17 condensate or graywater, for nonpotable uses;

18 (14) metering equipment needed to segregate water use
19 in order to identify water conservation opportunities or verify
20 water savings; or

21 (15) other energy or water conservation-related
22 improvements or equipment, ~~including~~ improvements or equipment
23 relating to renewable energy or nonconventional water sources or
24 water reuse~~ing~~.

25 (b) The board of trustees of a school district may enter
26 into an energy savings performance contract in accordance with this
27 section.

1 (c) Each ~~[All]~~ energy or water conservation measure
2 ~~[measures]~~ must comply with current local, state, and federal
3 construction, plumbing, and environmental codes and regulations.
4 Notwithstanding ~~[anything to the contrary in]~~ Subsection (a) ~~[(b)]~~,
5 an energy savings performance ~~[a]~~ contract may ~~[for energy or water~~
6 ~~conservation measures shall]~~ not include improvements or equipment
7 that allow or cause water from any condensing, cooling, or
8 industrial process or any system of nonpotable usage over which the
9 public water supply system officials do not have sanitary control,
10 to be returned to the potable water supply.

11 (d) The ~~[person with whom the]~~ board may enter into energy
12 savings performance contracts only with persons who are ~~[must be]~~
13 experienced in the design, implementation, and installation of the
14 energy or water conservation measures addressed by the contract.

15 (e) Before entering into an energy savings performance ~~[a]~~
16 contract ~~[for energy or water conservation measures]~~, the board
17 shall require the provider of the energy or water conservation
18 measures to file with the board a payment and performance bond
19 relating to the installation of the ~~[energy or water conservation]~~
20 measures in accordance with Chapter 2253, Government Code. The
21 ~~[that is in an amount the]~~ board ~~[finds reasonable and necessary to~~
22 ~~protect the interests of the school district and that]~~ may also
23 require a separate bond to cover the value of the guaranteed savings
24 on the contract ~~[and is conditioned on the faithful execution of the~~
25 ~~terms of the contract]~~.

26 (f) An energy savings performance contract ~~[Energy or water~~
27 ~~conservation measures with respect to existing buildings or~~

1 ~~facilities~~] may be financed:

2 (1) under a lease/purchase contract that has a term
3 not to exceed 15 years from the final date of installation and that
4 meets federal tax requirements for tax-free municipal leasing or
5 long-term financing;

6 (2) with the proceeds of bonds; or

7 (3) under a contract with the provider of the energy or
8 water conservation measures that has a term not to exceed 15 years
9 from the final date of installation.

10 (g) An energy savings performance [A] contract [~~for energy~~
11 ~~or water conservation measures~~] shall contain provisions requiring
12 [~~pursuant to which~~] the provider of the energy or water
13 conservation measures to guarantee [~~guarantee~~] the amount of the
14 savings to be realized by the school district under the contract.
15 If the term of an energy savings performance [a] contract [~~for~~
16 ~~energy or water conservation measures~~] exceeds one year, the school
17 district's contractual obligations in any one year during the term
18 of the contract beginning after the final date of installation may
19 not exceed the total energy, water, wastewater, and operating cost
20 savings, including [~~but not limited to~~] electrical, gas, water,
21 wastewater, or other utility cost savings and operating cost
22 savings resulting from the measures, [~~automatic monitoring and~~
23 ~~control~~] as determined by the school district in this subsection,
24 divided by the number of years in the contract term.

25 (h) An energy savings performance [A] contract shall [~~under~~
26 ~~this section may~~] be let according to the procedures established
27 for procuring certain professional services by Section 2254.004,

Government Code ~~[under competitive proposal procedures]~~. Notice of the request for qualifications ~~[proposals]~~ shall be published in the manner provided for competitive bidding. ~~[Requests for proposals must solicit quotations and must specify the relative importance of guaranteed savings, price, return on investment, financial performance and stability, quality, technical ability, experience, and other evaluation factors. The contract shall be awarded to the responsible offeror whose proposal, following negotiations, is determined to be the most advantageous to the school district considering the guaranteed savings and other evaluation factors set forth in the request for proposals.]~~

(i) Before ~~[To obtain the best final offers, the school district may allow proposal revisions after submissions and before the award of the contract.]~~

~~[(j) Prior to]~~ entering into an energy savings performance ~~[a] contract [under this section]~~, the board must require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who is not an officer or employee of an offeror for the contract under review or otherwise associated with the contract or the offeror. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract. Sections 1001.053 and 1001.407, Occupations Code, apply ~~[Section 19, The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), applies]~~ to work performed under the contract.

SECTION 6. Section 51.927, Education Code, as amended by Chapter 573, Acts of the 77th Legislature, Regular Session, 2001,

is amended to read as follows:

Sec. 51.927. ENERGY SAVINGS PERFORMANCE CONTRACTS [~~OR WATER CONSERVATION MEASURES~~]. (a) In this section, "energy savings performance contract" means a contract for energy or water conservation measures to reduce energy or water consumption or operating costs of institutional facilities in which the estimated savings in utility costs resulting from the measures is guaranteed to offset the cost of the measures over a specified period. The term [~~The governing board of an institution of higher education may enter into a contract for energy or water conservation measures to reduce energy or water consumption or operating costs of institutional facilities in accordance with this section.~~

~~[(b) A contract to which this section applies]~~ includes a contract for the installation or implementation of:

(1) insulation of a building structure and systems within a building;

(2) storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption;

(3) automatic energy control systems, including computer software and technical data licenses;

(4) heating, ventilating, or air conditioning system modifications or replacements that reduce energy or water consumption;

(5) lighting fixtures that increase energy efficiency;

1 (6) energy recovery systems;

2 (7) electric systems improvements;

3 (8) water-conserving fixtures, appliances, and
4 equipment or the substitution of non-water-using fixtures,
5 appliances, and equipment;

6 (9) water-conserving landscape irrigation equipment;

7 (10) landscaping measures that reduce watering
8 demands and capture and hold applied water and rainfall, including:

9 (A) landscape contouring, including the use of
10 berms, swales, and terraces; and

11 (B) the use of soil amendments that increase the
12 water-holding capacity of the soil, including compost;

13 (11) rainwater harvesting equipment and equipment to
14 make use of water collected as part of a storm-water system
15 installed for water quality control;

16 (12) equipment for recycling or reuse of water
17 originating on the premises or from other sources, including
18 treated municipal effluent;

19 (13) equipment needed to capture water from
20 nonconventional, alternate sources, including air conditioning
21 condensate or graywater, for nonpotable uses;

22 (14) metering equipment needed to segregate water use
23 in order to identify water conservation opportunities or verify
24 water savings; or

25 (15) other energy or water conservation-related
26 improvements or equipment, [+]including improvements or equipment
27 related to renewable energy or nonconventional water sources or

1 water reuse[+].

2 (b) The governing board of an institution of higher
 3 education may enter into an energy savings performance contract in
 4 accordance with this section.

5 (c) Each ~~[All]~~ energy or water conservation measure
 6 ~~[measures]~~ must comply with current local, state, and federal
 7 construction, plumbing, and environmental codes and regulations.
 8 Notwithstanding ~~[anything to the contrary in]~~ Subsection (a) ~~[(b)]~~,
 9 an energy savings performance ~~[a]~~ contract may ~~[for energy or water~~
 10 ~~conservation measures shall]~~ not include improvements or equipment
 11 that allow or cause water from any condensing, cooling, or
 12 industrial process or any system of nonpotable usage over which the
 13 public water supply system officials do not have sanitary control,
 14 to be returned to the potable water supply.

15 (d) The ~~[entity with whom the]~~ board may enter into energy
 16 savings performance contracts only with entities that are ~~[must be]~~
 17 experienced in the design, implementation, and installation of the
 18 energy or water conservation measures addressed by the contract.

19 (e) Before entering into an energy savings performance ~~[a]~~
 20 contract ~~[for energy or water conservation measures]~~, the board
 21 shall require the provider of the energy or water conservation
 22 measures to file with the board a payment and performance bond in
 23 accordance with Chapter 2253, Government Code. The ~~[that is in an~~
 24 ~~amount the]~~ board may also require a separate bond to cover the
 25 value of the guaranteed savings on ~~[finds reasonable and necessary~~
 26 ~~to protect the interests of the institution and is conditioned on~~
 27 ~~the faithful execution of the terms of]~~ the contract.

(f) The board may enter into an energy savings performance [a] contract for a period of more than one year only [~~for energy or water conservation measures with an entity~~] if the board finds that the amount the institution would spend on the energy or water conservation measures will not exceed the amount to be saved in energy, water, wastewater, and operating costs over 15 years from the date of installation. If the term of the [a] contract [~~for energy or water conservation measures~~] exceeds one year, the institution's [~~board's~~] contractual obligation in any year during the term of the contract beginning after the final date of installation may not exceed the total energy, water, wastewater, and operating cost savings, including [~~but not limited to~~] electrical, gas, water, wastewater, or other utility cost savings and operating cost savings resulting from the measures [~~automatic monitoring and control~~], as determined by the board in this subsection, divided by the number of years in the contract term beginning after the final date of installation. The board shall consider all costs of the energy or water conservation measures, including costs of design, engineering, installation, maintenance, repairs, and debt service.

(g) An energy savings performance contract [~~Energy or water conservation measures~~] may be financed:

(1) under a lease/purchase contract that has a term not to exceed 15 years from the final date of installation and that meets federal tax requirements for tax-free municipal leasing or long-term financing, including a lease/purchase contract under the master equipment lease purchase program administered by the Texas

1 Public Finance Authority under Chapter 1232, Government Code;

2 (2) with the proceeds of bonds; or

3 (3) under a contract with the provider of the energy or
4 water conservation measures that has a term not to exceed 15 years
5 from the final date of installation.

6 (h) An energy savings performance [A] contract [~~for energy~~
7 ~~or water conservation measures~~] shall contain provisions requiring
8 [~~pursuant to which~~] the provider of the energy or water
9 conservation measures to guarantee [~~guarantees~~] the amount of the
10 savings to be realized by the institution of higher education under
11 the contract. [~~The Master Equipment Lease Purchase Program~~
12 ~~operated by the Texas Public Finance Authority may be utilized by an~~
13 ~~institution to fund a contract for energy or water conservation~~
14 ~~measures so long as the costs of the energy or water conservation~~
15 ~~measures, including costs of design, engineering, installation,~~
16 ~~maintenance, repairs, and anticipated debt service requirements of~~
17 ~~the Master Equipment Lease Purchase Program, do not exceed the~~
18 ~~total energy and operating cost savings, as described in Subsection~~
19 ~~(f), beginning after the final date of installation.~~]

20 (i) An energy savings performance [A] contract shall [~~under~~
21 ~~this section may~~] be let according to the procedures established
22 for procuring certain professional services by Section 2254.004,
23 Government Code [~~under competitive sealed proposal procedures~~].
24 Notice of the request for qualifications [~~proposals~~] shall be given
25 in the manner provided by Section 2156.002 [~~for in Chapter 2156~~],
26 Government Code. The Texas Higher Education Coordinating Board, in
27 consultation with the State Energy Conservation Office [~~and the~~

1 ~~Texas Energy Coordination Council]~~ with regard to energy and water
2 conservation measures, shall establish guidelines and an approval
3 process for awarding energy savings performance contracts [~~awarded~~
4 ~~under this section~~]. The guidelines must require that the cost
5 savings projected by an offeror be reviewed by a licensed
6 professional engineer who is not an officer or employee of an
7 offeror for the contract under review or otherwise associated with
8 the contract. An engineer who reviews a contract shall maintain the
9 confidentiality of any proprietary information the engineer
10 acquires while reviewing the contract. A contract is not required
11 to be reviewed or approved by the State Energy Conservation Office
12 [~~or Texas Energy Coordination Council~~]. Sections 1001.053 and
13 1001.407, Occupations Code, apply [~~Section 19, The Texas~~
14 ~~Engineering Practice Act (Article 3271a, Vernon's Texas Civil~~
15 ~~Statutes), applies~~] to work performed under the contract. [~~The~~
16 ~~contract shall be awarded to the responsible offeror whose~~
17 ~~proposal, following negotiations, is determined by the institution~~
18 ~~to be the most advantageous to the institution considering the~~
19 ~~guaranteed savings and other evaluation factors set forth in the~~
20 ~~request for proposals, except that if the institution finds that no~~
21 ~~offer is acceptable, it shall refuse all offers.~~]

22 (j) [~~In accordance with regulations adopted by the~~
23 ~~institution, the institution may conduct discussions with offerors~~
24 ~~who submit proposals and who are determined to be reasonably~~
25 ~~qualified for the award of the contract. Offerors shall be treated~~
26 ~~fairly and equally with respect to any opportunity for discussion~~
27 ~~and revision of proposals. To obtain the best final offers, the~~

1 ~~institution may allow proposal revisions after submissions and~~
2 ~~before the award of the contract.~~

3 ~~[(k) If provided in a request for proposals under Subsection~~
4 ~~(i), proposals shall be opened in a manner that avoids disclosure of~~
5 ~~the contents to competing offerors and keeps the proposals secret~~
6 ~~during negotiations. All proposals are open for public inspection~~
7 ~~after a contract is awarded unless the information is excepted from~~
8 ~~disclosure under Chapter 552, Government Code.~~

9 ~~[(1)]~~ The legislature shall base an institution's
10 appropriation for energy, water, and wastewater costs during a
11 fiscal year on the sum of:

12 (1) the institution's estimated energy, water, and
13 wastewater costs for that fiscal year; and

14 (2) if an energy savings performance ~~[a]~~ contract
15 ~~[under this section]~~ is in effect, the institution's estimated net
16 savings resulting from the contract during the contract term,
17 divided by the number of years in the contract term.

18 SECTION 7. Section 53.02, Education Code, is amended by
19 adding Subdivision (14) to read as follows:

20 (14) "Borrower" means any of the following entities
21 that is the recipient of a loan made under Section 53.34:

22 (A) an institution of higher education;

23 (B) a nonprofit corporation incorporated by and
24 under the exclusive control of an institution of higher education;

25 (C) an accredited primary or secondary school; or

26 (D) an accredited charter school.

27 SECTION 8. Section 53.33, Education Code, is amended to

read as follows:

Sec. 53.33. LIMITED POWER TO ACQUIRE, OWN, AND OPERATE EDUCATIONAL AND HOUSING FACILITIES~~[+ CONSTRUCTION, ACQUISITION, ETC]~~. (a) An [The] authority or a nonprofit instrumentality created under Section 53.35(b) may acquire, own, hold title to, lease, or operate an educational facility or housing facility or any facility incidental, subordinate, or related to or appropriate in connection with an educational facility or housing facility, but only if:

(1) the facility is or will be located within the corporate limits of the city that created the authority or nonprofit instrumentality;

(2) the governing body of an institution of higher education officially requests the authority or nonprofit instrumentality to acquire and own the facility for the benefit of the institution of higher education;

(3) the institution of higher education officially agrees to accept, and has authority to receive legal title to, the facility not later than the date on which any bonds or other obligations issued to acquire the facility are paid in full; and

(4) the ownership of the facility by the authority or the nonprofit instrumentality is approved by official action of the governing body of:

(A) the city that created the authority or nonprofit instrumentality;

(B) the school district in which the facility is or will be located; and

1 (C) the county in which the facility is or will be
2 located.

3 (b) An authority or instrumentality that exercises the
4 powers granted by Subsection (a) may contract for the operation of
5 the facility by public or private entities or persons on the terms
6 and conditions set forth in a contract relating to the operation of
7 the facility.

8 (c) The changes in law made by the amendment of this section
9 by the 78th Legislature, Regular Session, 2003, do not affect the
10 acquisition, ownership, construction, or improvement of a
11 facility, or the acquisition and ownership of land that were
12 approved by official action of the authority or nonprofit corporate
13 instrumentality before March 15, 2003, and the law in effect
14 immediately before the effective date of the amendment of this
15 section by the 78th Legislature, Regular Session, 2003, is
16 continued in effect for that purpose ~~[by purchase, purchase~~
17 ~~contract, or lease, may construct, or may enlarge, extend, repair,~~
18 ~~renovate, or otherwise improve educational facilities or housing~~
19 ~~facilities. It may acquire land for those purposes, furnish and~~
20 ~~equip the facilities, and provide by contract, lease, or otherwise~~
21 ~~for the operation and maintenance of the facilities. The~~
22 ~~facilities need not be located within the city limits of the city or~~
23 ~~cities].~~

24 SECTION 9. Section 53.34, Education Code, is amended to
25 read as follows:

26 Sec. 53.34. REVENUE BONDS. (a) An [The] authority or a
27 nonprofit instrumentality created under Section 53.35(b),

1 including an authority or nonprofit instrumentality authorized to
 2 own facilities under Section 53.33(a), may issue and execute
 3 revenue bonds or other obligations to loan or otherwise provide
 4 funds to a borrower if:

5 (1) the governing body of the borrower by official
 6 action requests the issuer of the bonds or other obligations to loan
 7 the proceeds under this subsection;

8 (2) the purpose of the loan is to enable the borrower
 9 to acquire, construct, enlarge, extend, repair, renovate, or
 10 otherwise improve an educational facility or housing facility or
 11 any facility incidental, subordinate, or related to or appropriate
 12 in connection with an educational facility or housing facility, or
 13 for acquiring land to be used for those purposes, or to create
 14 operating and debt service reserves for and to pay issuance costs
 15 related to the bonds or other obligations; and

16 (3) under the terms of the loan, and unless a mortgage
 17 lien granted to secure the loan is in default, the ownership of the
 18 facility is required to be at all times under the exclusive control,
 19 and held for the exclusive benefit, of the borrower ~~[for any of its~~
 20 ~~purposes]~~.

21 (b) In issuing revenue bonds or other obligations under this
 22 chapter, the issuer of the bonds or other obligations ~~[authority]~~
 23 is considered to be acting on behalf of the ~~[any]~~ city by which it
 24 was created.

25 (c) Bonds or other obligations issued under Subsection (a)
 26 ~~[(b) The bonds]~~ shall be payable from and secured by a pledge of
 27 the revenues, income, ~~[all or any part of the gross or net revenue~~

1 ~~to be derived from the operation of the facility or facilities and~~
2 ~~any other revenue]~~ or assets pledged for the purpose by the
3 borrower. The bonds or other obligations may be additionally
4 secured by a mortgage, ~~[or]~~ deed of trust, ~~[on real property of the~~
5 ~~authority]~~ or ~~[by a]~~ chattel mortgage on real or ~~[its]~~ personal
6 property, or on ~~[by]~~ both real and personal property, if granted by
7 the borrower.

8 (d) A facility financed with the proceeds of a loan or loans
9 made to a borrower under Subsection (a) is not required to be
10 located within the corporate limits of the city that created the
11 issuer of the bonds or other obligations.

12 (e) An authority or a nonprofit instrumentality that is
13 authorized to acquire and own educational facilities and housing
14 facilities under Section 53.33(a) may issue and execute revenue
15 bonds and other obligations for the purpose of acquiring, owning,
16 and operating the educational and housing facilities, to create
17 operating reserves for the facilities, and to create debt service
18 reserves for and to pay issuance costs related to the bonds or other
19 obligations.

20 (f) Bonds or other obligations issued under Subsection (e)
21 shall be payable from and secured by a pledge of all or any part of
22 the gross or net revenues to be derived from the operation of the
23 educational facilities and housing facilities being acquired and
24 any other revenues, income, or assets, including the revenues and
25 income of the educational facilities or housing facilities
26 previously acquired or subsequently to be acquired. The bonds or
27 other obligations may be additionally secured by a mortgage, deed

of trust, or chattel mortgage on real or personal property, or on both real and personal property, if granted by the authority or nonprofit instrumentality issuing the bonds or other obligations.

(g) The changes in law made by the amendment of this section by the 78th Legislature, Regular Session, 2003, affect and apply only to transactions involving bonds or other obligations that are issued or executed under this chapter on or after March 15, 2003. Bonds or other obligations that are issued or executed under this chapter before March 15, 2003, are governed by the law in effect immediately before the amendment of this section by the 78th Legislature, Regular Session, 2003, and that former law is continued in effect for that purpose.

SECTION 10. Section 53.35(b), Education Code, is amended to read as follows:

(b) In addition to or in lieu of establishing an authority under the provisions of this chapter, the governing body of a city or cities may request or order created one or more nonprofit corporations to act on its behalf and as its duly constituted authority and instrumentality to exercise the powers granted to an authority under the provisions of Sections ~~[Section]~~ 53.33 and 53.34~~[, Texas Education Code]~~. If a nonprofit corporation is created for such purposes or agrees to such request, the directors thereof shall thereafter be appointed and be subject to removal by the governing body of the city or cities. In addition to the powers ~~[of lease or acquisition of facilities]~~ granted under, and subject to the limitations provided by, Sections ~~[Section]~~ 53.33 and 53.34, the corporation shall have all powers granted under the Texas

Non-Profit Corporation Act for the purpose of aiding institutions of higher education in providing educational facilities and housing facilities and facilities incidental, subordinate, or related thereto or appropriate in connection therewith. In addition to Sections [the provisions of Section] 53.33 and 53.34 and the Texas Non-Profit Corporation Act, as amended (Article 1396-1.01, Vernon's Texas Civil Statutes), Sections 53.131, 53.14, 53.15, 53.31, 53.32, 53.331, 53.34, 53.35, 53.38, and 53.41 of this code [~~the Texas Education Code, shall~~] apply to and govern such corporation and its procedures, [and] bonds, and other obligations.

SECTION 11. Section 53.48, Education Code, is amended to read as follows:

Sec. 53.48. BONDS FOR ACCREDITED PRIMARY OR SECONDARY SCHOOLS. In the same manner that a corporation may issue and execute bonds or other obligations under this chapter for an institution of higher education, a corporation created under Section 53.35(b) may issue and execute bonds or other obligations to finance or refinance educational facilities or housing facilities to be used by an accredited primary or secondary school or by an authorized charter school.

SECTION 12. Section 54.619, Education Code, is amended by adding Subsection (j) to read as follows:

(j) The board may temporarily suspend new enrollment in the program on the request of the comptroller as the comptroller considers necessary to ensure the actuarial soundness of the fund.

SECTION 13. Section 54.624, Education Code, is amended to read as follows:

1 Sec. 54.624. SENIOR COLLEGE PLAN. (a) Through the senior
2 college plan, a prepaid tuition contract shall provide prepaid
3 tuition and required fees for the beneficiary to attend a public
4 senior college or university for a specified number of
5 undergraduate credit hours not to exceed the typical number of
6 hours required for a baccalaureate degree awarded by a public
7 senior college or university.

8 (b) When the beneficiary of a senior college plan prepaid
9 tuition contract enrolls in a public senior college or university,
10 the university shall accept as payment in full of the beneficiary's
11 tuition and required fees the lesser of:

12 (1) the amount of tuition and required fees charged by
13 the institution; or

14 (2) an amount paid by the board under the contract
15 equal to the weighted average amount of tuition and required fees of
16 all public senior colleges and universities for that semester or
17 other academic period as determined by the board.

18 (c) Each public senior college or university shall provide
19 the information requested by the board on or before June 1 each year
20 to assist the board in determining the weighted average amount of
21 tuition and required fees of all public senior colleges and
22 universities for each semester or other academic term of the
23 following academic year for purposes of this section.

24 SECTION 14. Section 55.1731(a), Education Code, is amended
25 to read as follows:

26 (a) In addition to the other authority granted by this
27 subchapter, the board of regents of The Texas A&M University System

1 may issue in accordance with this subchapter and in accordance with
2 a systemwide revenue financing program adopted by the board bonds
3 for the following institutions not to exceed the following
4 aggregate principal amounts to finance projects specified as
5 follows:

6 (1) Prairie View A&M University:

7 (A) \$53 million to construct or renovate
8 engineering facilities, construct and renovate an architecture
9 building, and carry out other campus renovations; and

10 (B) \$15 million to construct a juvenile justice
11 and psychology building;

12 (2) Tarleton State University, \$18.7 million for a
13 library addition and renovation of a mathematics building;

14 (3) Texas A&M University--Commerce, \$14,960,000 to
15 construct [~~replace~~] a science building [~~wing~~];

16 (4) Texas A&M University--Corpus Christi, \$34 million
17 to construct a classroom and laboratory facility and for
18 construction of the Harte Research Center;

19 (5) Texas A&M International University, \$21,620,000
20 to construct a science building (Phase IV);

21 (6) Texas A&M University at Galveston, \$10,030,000 to
22 construct an engineering building;

23 (7) Texas A&M University--Kingsville, \$20,060,000 to
24 construct facilities for a pharmacy school and to construct a
25 student services building;

26 (8) Texas A&M University--Texarkana, \$17 million to
27 construct a health science building and for library renovation;

1 (9) West Texas A&M University, \$22,780,000 to
2 construct a fine arts complex; and

3 (10) The Texas A&M University Health Science Center,
4 \$14.3 million for construction of classroom and faculty office
5 facilities for the School of Rural Public Health.

6 SECTION 15. Section 403.016(f), Government Code, is amended
7 to read as follows:

8 (f)(1) Except as provided by Subdivisions [~~Subdivision~~] (2)
9 and (4) and subject to any limitation in rules adopted by the
10 comptroller, an automated clearinghouse, or the federal
11 government, the comptroller may use the electronic funds transfer
12 system to deposit payments only to one or more accounts of a payee
13 at one or more financial institutions, including credit unions.

14 (2) The comptroller may also use the electronic funds
15 transfer system to deposit a portion of an employee's gross pay into
16 the employee's account at a credit union as prescribed by
17 Subchapter G, Chapter 659.

18 (3) A single electronic funds transfer may contain
19 payments to multiple payees. Individual transfers or warrants are
20 not required for each payee.

21 (4) The comptroller may also use the electronic funds
22 transfer system to deposit a portion of an employee's gross pay into
23 an account of an eligible state employee organization for a
24 membership as prescribed by Subchapter G, Chapter 659.

25 SECTION 16. Section 403.020, Government Code, is amended to
26 read as follows:

27 Sec. 403.020. PERFORMANCE REVIEW OF SCHOOL DISTRICTS AND

1 INSTITUTIONS OF HIGHER EDUCATION. (a) In this section, "public
2 junior college" and "general academic teaching institution" have
3 the meanings assigned by Section 61.003, Education Code.

4 (b) The comptroller may periodically review the
5 effectiveness and efficiency of the budgets and operations of:

6 (1) school districts;

7 (2) public junior colleges; and

8 (3) general academic teaching institutions.

9 (c) A review of a school district may be initiated by the
10 comptroller or by the request of the ~~[school]~~ district. Except as
11 provided by Subsection (c-1), a review of a public junior college or
12 general academic teaching institution may be initiated only at the
13 request of:

14 (1) the governor;

15 (2) the Legislative Budget Board; or

16 (3) the governing body of the college or institution.

17 (c-1) A review of a general academic teaching institution
18 may be initiated by the comptroller if the rate of graduation within
19 six years of initial enrollment for entering freshman students of
20 the institution for the most recent six-year period for which that
21 information is available is less than 35 percent, as determined by
22 the Texas Higher Education Coordinating Board.

23 (d) A review may be initiated by a school district only by
24 resolution adopted by a majority of the members of the board of
25 trustees of the district. A review may be initiated by a public
26 junior college or general academic teaching institution only at the
27 request of the president of the college or institution or by a

1 resolution adopted by a majority of the governing body of the
2 college or institution.

3 (e) [~~(b)~~] If a review is initiated by the school district,
4 public junior college, or general academic teaching institution,
5 the district, college, or institution shall pay 25 percent of the
6 cost incurred in conducting the review.

7 (f) [~~(e)~~] The comptroller shall:

8 (1) prepare a report showing the results of each
9 review conducted under this section;

10 (2) file the report with:

11 (A) the school district, public junior college,
12 or general academic teaching institution that is the subject of the
13 report;

14 (B) [] the governor;

15 (C) [] the lieutenant governor;

16 (D) [] the speaker of the house of
17 representatives;

18 (E) [] the chairs of the standing committees of
19 the senate and of the house of representatives with jurisdiction
20 over public education;

21 (F) the commissioner of higher education, if a
22 public junior college or general academic teaching institution is
23 the subject of the report; [] and

24 (G) the commissioner of education, if a school
25 district is the subject of the report; and

26 (3) make the entire report and a summary of the report
27 available to the public on the Internet.

1 SECTION 17. Section 403.027(g), Government Code, is amended
2 to read as follows:

3 (g) In this section, "digital signature" means an
4 electronic identifier intended by the person using it to have the
5 same force and effect as the use of a manual signature ~~[has the~~
6 ~~meaning assigned by Section 2.108(d), Business & Commerce Code]~~.

7 SECTION 18. Section 403.054, Government Code, is amended by
8 amending Subsection (b) and adding Subsection (i) to read as
9 follows:

10 (b) The comptroller may not issue a replacement warrant if:

11 (1) the comptroller has paid the original warrant,
12 unless the comptroller:

13 (A) has received ~~[obtained]~~ a refund of the
14 payment; or

15 (B) is satisfied that the state agency on whose
16 behalf the comptroller issued the original warrant has taken
17 reasonable steps to obtain a refund of the payment;

18 (2) the period during which the comptroller may pay
19 the original warrant has expired under Section 404.046 or other
20 applicable law;

21 (3) the payee of the replacement warrant is not the
22 same as the payee of the original warrant; or

23 (4) the comptroller is prohibited by a payment law
24 ~~[Section 403.055 or 481.0841, or by Section 57.48, Education Code,]~~
25 from issuing a warrant to the payee of the replacement warrant.

26 (i) In this section, "payment law" means:

27 (1) Section 403.055;

(2) Section 57.48, Education Code;
 (3) Section 231.007, Family Code; or
 (4) any similar law that prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to a person.

SECTION 19. Sections 403.092(a) and (b), Government Code, are amended to read as follows:

(a) To allow efficient management of the cash flow of the general revenue fund and to avoid a temporary cash deficiency in that fund, the comptroller may transfer available ~~[surplus]~~ cash, except constitutionally dedicated revenues, between funds that are managed by or in the custody of the comptroller ~~[state treasury]~~. As soon as practicable the comptroller shall return the available ~~[surplus]~~ cash to the fund from which it was transferred. The comptroller shall preserve the ~~[fund]~~ equity of the fund from which the cash was transferred and shall allocate the earned ~~[depository]~~ interest as if the transfer had not been made.

(b) If the comptroller submits a statement under Article III, Section 49a, of the Texas Constitution when available ~~[surplus]~~ cash transferred under Subsection (a) is in the general revenue fund, the comptroller shall indicate in that statement that the transferred available ~~[surplus]~~ cash is in the general revenue fund, is a liability of that fund, and is not available for appropriation by the legislature except as necessary to return cash to the fund from which it was transferred as required by Subsection (a).

SECTION 20. Sections 403.1042(b), (c), (e), and (f),

Government Code, are amended to read as follows:

(b) The advisory committee is composed of 11 members appointed ~~[by the advisory committee]~~ as follows:

(1) one member appointed ~~[nominated]~~ by the comptroller to represent a public hospital or hospital district located in a county with a population of 50,000 or less or a public hospital owned or maintained by a municipality;

(2) one member appointed ~~[nominated]~~ by the political subdivision that, in the year preceding the appointment, received the largest annual distribution paid from the account;

(3) one member appointed ~~[nominated]~~ by the political subdivision that, in the year preceding the appointment, received the second largest annual distribution paid from the account;

(4) four members appointed ~~[nominated]~~ by political subdivisions that:

(A) in the year preceding the appointment, received the 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, or 12th largest annual distribution paid from the account; and

(B) do not have an appointee ~~[a nominee]~~ serving on the advisory committee at the time of appointment;

(5) one member appointed ~~[nominated]~~ by the County Judges and Commissioners Association of Texas;

(6) one member appointed ~~[nominated]~~ by the North and East Texas County Judges and Commissioners Association;

(7) one member appointed ~~[nominated]~~ by the South Texas County Judges and Commissioners Association; and

(8) one member appointed ~~[nominated]~~ by the West Texas

County Judges and Commissioners Association.

(c) A commissioners court that sets the tax rate for a hospital district must approve any person appointed ~~[nominated]~~ by the hospital district to serve on the advisory committee.

(e) Except as provided by this subsection, members ~~[Members]~~ of the advisory committee serve staggered six-year terms expiring on August 31 of each odd-numbered year. A member of the advisory committee whose term expires or who attempts to resign from the committee remains a member of the committee until the member's successor is appointed.

(f) An individual or entity authorized to make an appointment ~~[or nominate someone for appointment]~~ to the advisory committee created under this section shall attempt to appoint ~~[or nominate]~~ persons who represent the gender composition, minority populations, and geographic regions of the state.

SECTION 21. Section 403.401(4), Government Code is amended to read as follows:

(4) "Office" means the office of the governor ~~[comptroller]~~.

SECTION 22. Section 403.403(d), Government Code, is amended to read as follows:

(d) The governor shall designate ~~[comptroller is]~~ the presiding officer of the board to serve in that capacity at the pleasure of the governor.

SECTION 23. Section 403.406(a), Government Code, is amended to read as follows:

(a) The board shall hold regular meetings in Austin and other

1 meetings at places and times scheduled by the board in formal
2 sessions and called by the governor ~~[comptroller]~~.

3 SECTION 24. Section 403.413, Government Code, is amended by
4 amending Subsections (b) and (e) and adding Subsection (h) to read
5 as follows:

6 (b) In determining eligible products and ~~[small]~~
7 businesses, the board shall give special preference to products or
8 businesses in the areas of semiconductors, nanotechnology,
9 biotechnology, and biomedicine that have the greatest likelihood of
10 commercial success, job creation, and job retention in this state.

11 (e) The board may appoint an advisory committee of experts
12 in the areas of semiconductors, nanotechnology, biotechnology, and
13 biomedicine to review projects and businesses seeking financing
14 from the board.

15 (h) Any business in this state may be eligible for funding
16 through the small business incubator fund if it is determined to
17 have a substantial likelihood of developing and expanding the
18 opportunities for small businesses in the semiconductor, nanotech,
19 biotech, or biomedicine industries in Texas.

20 SECTION 25. Section 404.024, Government Code, is amended by
21 amending Subsection (b) and adding Subsection (1) to read as
22 follows:

23 (b) State funds not deposited in state depositories shall be
24 invested by the comptroller in:

- 25 (1) direct security repurchase agreements;
26 (2) reverse security repurchase agreements;
27 (3) direct obligations of or obligations the principal

1 and interest of which are guaranteed by the United States;

2 (4) direct obligations of or obligations guaranteed by
3 agencies or instrumentalities of the United States government;

4 (5) bankers' acceptances that:

5 (A) are eligible for purchase by the Federal
6 Reserve System;

7 (B) do not exceed 270 days to maturity; and

8 (C) are issued by a bank that has received the
9 highest short-term credit rating by a nationally recognized
10 investment rating firm;

11 (6) commercial paper that:

12 (A) does not exceed 270 days to maturity; and

13 (B) except as provided by Subsection (i), has
14 received the highest short-term credit rating by a nationally
15 recognized investment rating firm;

16 (7) contracts written by the treasury in which the
17 treasury grants the purchaser the right to purchase securities in
18 the treasury's marketable securities portfolio at a specified price
19 over a specified period and for which the treasury is paid a fee and
20 specifically prohibits naked-option or uncovered option trading;

21 (8) direct obligations of or obligations guaranteed by
22 the Inter-American Development Bank, the International Bank for
23 Reconstruction and Development (the World Bank), the African
24 Development Bank, the Asian Development Bank, and the International
25 Finance Corporation that have received the highest credit rating by
26 a nationally recognized investment rating firm;

27 (9) bonds issued, assumed, or guaranteed by the State

1 of Israel;

2 (10) obligations of a state or an agency, county,
3 city, or other political subdivision of a state;

4 (11) mutual funds secured by obligations that are
5 described by Subdivisions (1) through (6), including pooled funds:

6 (A) established by the Texas Treasury
7 Safekeeping Trust Company;

8 (B) operated like a mutual fund; and

9 (C) with portfolios consisting only of
10 dollar-denominated securities; and

11 (12) foreign currency for the sole purpose of
12 facilitating investment by state agencies that have the authority
13 to invest in foreign securities.

14 (1) The comptroller may lend securities under procedures
15 established by the comptroller. The procedures must be consistent
16 with industry practice and must include a requirement to fully
17 secure the loan with cash, obligations, or a combination of cash and
18 obligations. In this subsection, "obligation" means an item
19 described by Subsections (b)(1)-(6).

20 SECTION 26. Section 404.102, Government Code, is amended by
21 amending Subsection (a) and adding Subsection (c) to read as
22 follows:

23 (a) The comptroller may incorporate a special-purpose trust
24 company called the Texas Treasury Safekeeping Trust Company. The
25 purposes of the trust company are to provide a means for the
26 comptroller to obtain direct access to services provided by the
27 Federal Reserve System and to enable the comptroller to manage,

1 disburse, transfer, safekeep, and invest funds and securities more
2 efficiently and economically by using established and reasonable
3 financial practices, including the pooling of funds and the lending
4 of securities to the extent practical or necessary. The
5 comptroller may deposit funds and securities with the trust company
6 to achieve its purpose.

7 (c) The trust company may establish government investment
8 pools consisting of state agency funds not required to be deposited
9 in the state treasury and local government funds that are placed
10 into the pools for investment or reinvestment by the trust company.
11 A state agency or local government may place funds into the pools
12 for investment or reinvestment as authorized by Subsection (a) or
13 other law. In this subsection, "local government" and "state
14 agency" have the meanings assigned by Section 2256.002.

15 SECTION 27. Section 404.107(b), Government Code, is amended
16 to read as follows:

17 (b) A participant that has money or securities on ~~[Agencies~~
18 ~~and local political subdivisions of the state and nonprofit~~
19 ~~corporations, foundations, and other charitable organizations~~
20 ~~created on behalf of the state or an agency or local political~~
21 ~~subdivision of the state that are authorized or required to]~~
22 deposit ~~[money and securities]~~ with the trust company shall pay the
23 fees provided in ~~[established on]~~ the trust company's fee schedule
24 developed under Section 404.103(f). The trust company may:

25 (1) deduct a fee from the principal or earning of a
26 participant on deposit with the trust company; or

27 (2) require a participant to pay a fee from an amount

1 not on deposit with the trust company.

2 SECTION 28. Section 404.123(b), Government Code, is amended
3 to read as follows:

4 (b) The committee may impose a limit on the sum of the total
5 amount of the notes outstanding and the total outstanding liability
6 of the general revenue fund under Section 403.092 [~~may not at any~~
7 ~~time exceed 25 percent of the taxes and revenues to be credited to~~
8 ~~the general revenue fund for the fiscal year as determined by the~~
9 ~~comptroller, based on the certification made by the comptroller in~~
10 ~~the enactment of the General Appropriations Act applicable to that~~
11 ~~fiscal year]~~.

12 SECTION 29. Chapter 447, Government Code, as amended by
13 Chapters 573, 1158, and 1398, Acts of the 77th Legislature, Regular
14 Session, 2001, is reenacted to read as follows:

15 CHAPTER 447. STATE ENERGY CONSERVATION OFFICE

16 Sec. 447.001. GOVERNANCE AND GENERAL AUTHORITY. The state
17 energy conservation office:

18 (1) is under the direction and control of the
19 comptroller;

20 (2) shall promote the policies enumerated in this
21 chapter; and

22 (3) may act in any capacity authorized by state or
23 federal law.

24 Sec. 447.002. INFORMATION; PROCEDURES AND RULES; MEASURES
25 AND PROGRAMS. (a) The state energy conservation office shall
26 develop and provide energy and water conservation information for
27 the state.

1 (b) The state energy conservation office may establish
2 procedures and adopt rules relating to the development and
3 implementation of energy and water conservation measures and
4 programs applicable to state buildings and facilities.

5 (c) A procedure established or a rule adopted under
6 Subsection (b) may include provisions relating to:

7 (1) the retrofitting of existing state buildings and
8 facilities with energy-saving or water-saving devices; and

9 (2) the energy-related or water-related renovation of
10 those buildings and facilities.

11 (d) To the extent that the governor receives money
12 appropriated for energy and water efficiency measures and programs,
13 the governor, through the state energy conservation office, shall
14 implement measures and programs that the state energy conservation
15 office identifies as encouraging energy or water conservation by
16 state government.

17 (e) A state agency shall implement an energy or water
18 conservation measure or program in accordance with plans developed
19 under Section 447.009.

20 (f) The state energy conservation office shall coordinate
21 all water conservation-related activities with the Texas Water
22 Development Board. The board shall assist the office in the
23 development of all proposed water conservation and reuse
24 requirements and provide training and expertise to the office
25 regarding water conservation issues.

26 Sec. 447.003. LIAISON TO FEDERAL GOVERNMENT. The state
27 energy conservation office is the state liaison to the federal

1 government for the implementation and administration of federal
2 programs relating to state agency energy matters. The office shall
3 administer state programs established under:

4 (1) Part D, Title III, Energy Policy and Conservation
5 Act (42 U.S.C. Section 6321 et seq.), and its subsequent
6 amendments;

7 (2) Part G, Title III, Energy Policy and Conservation
8 Act (42 U.S.C. Section 6371 et seq.), and its subsequent
9 amendments; and

10 (3) other federal energy conservation programs as
11 assigned to the office by the governor or the legislature.

12 Sec. 447.004. DESIGN STANDARDS. (a) The state energy
13 conservation office shall establish and publish mandatory energy
14 and water conservation design standards for each new state building
15 or major renovation project, including a new building or major
16 renovation project of a state-supported institution of higher
17 education. The office shall define "major renovation project" for
18 purposes of this section and shall review and update the standards
19 biennially.

20 (b) The standards established under Subsection (a) must:

21 (1) include performance and procedural standards for
22 the maximum energy and water conservation allowed by the latest and
23 most cost-effective technology that is consistent with the
24 requirements of public health, safety, and economic resources;

25 (2) be stated in terms of energy and water consumption
26 levels;

27 (3) consider the various types of building uses; and

1 (4) allow for design flexibility.

2 (c) Any procedural standard established under this section
3 must be directed toward specific design and building practices that
4 produce good thermal resistance and low infiltration and toward
5 requiring practices in the design of mechanical and electrical
6 systems that maximize energy and water efficiency. The procedural
7 standards must address, as applicable:

8 (1) insulation;

9 (2) lighting;

10 (3) ventilation;

11 (4) climate control;

12 (5) water-conserving fixtures, appliances, and
13 equipment or the substitution of non-water-using fixtures,
14 appliances, and equipment;

15 (6) water-conserving landscape irrigation equipment;

16 (7) landscaping measures that reduce watering demands
17 and capture and hold applied water and rainfall, including:

18 (A) landscape contouring, including the use of
19 berms, swales, and terraces; and

20 (B) the use of soil amendments that increase the
21 water-holding capacity of the soil, including compost;

22 (8) rainwater harvesting equipment and equipment to
23 make use of water collected as part of a storm-water system
24 installed for water quality control;

25 (9) equipment for recycling or reusing water
26 originating on the premises or from other sources, including
27 treated municipal effluent;

1 (10) equipment needed to capture water from
2 nonconventional, alternate sources, including air conditioning
3 condensate or graywater, for nonpotable uses;

4 (11) metering equipment needed to segregate water use
5 in order to identify water conservation opportunities or verify
6 water savings;

7 (12) special energy requirements of health-related
8 facilities of higher education and state agencies; and

9 (13) any other item that the state energy conservation
10 office considers appropriate.

11 (d) A state agency or an institution of higher education
12 shall submit a copy of its design and construction manuals to the
13 state energy conservation office as the office considers necessary
14 to demonstrate compliance by the agency or institution with the
15 standards established under this section.

16 (e) A state agency or an institution of higher education may
17 not begin construction of a new state building or a major renovation
18 project before the design architect or engineer for the
19 construction or renovation has:

20 (1) certified to the agency or institution that the
21 construction or renovation complies with the standards established
22 under this section; and

23 (2) provided a copy of that certification to the state
24 energy conservation office.

25 Sec. 447.005. ENERGY AND WATER EFFICIENCY PROJECTS.
26 Subject to applicable state and federal laws or guidelines, the
27 state energy conservation office may:

1 (1) implement an energy or water efficiency project at
2 a state agency; or

3 (2) assist the agency in implementing the project
4 through an energy or water efficiency program.

5 Sec. 447.006. ADDITIONAL ENERGY AND WATER SERVICES. (a)
6 The state energy conservation office may provide additional energy
7 and water services, including:

8 (1) training of designated state employees in energy
9 and water management, energy-accounting techniques,
10 water-accounting techniques, and energy efficient and water
11 efficient design and construction;

12 (2) technical assistance regarding energy efficient
13 and water efficient capital improvements, energy efficient and
14 water efficient building design, and cogeneration and thermal
15 storage investments;

16 (3) technical assistance to the state auditor or a
17 state agency regarding energy and water management performance
18 audits and the monitoring of utility bills to detect billing
19 errors;

20 (4) technical assistance to a state agency regarding
21 third-party financing of an energy efficient and water efficient
22 capital improvement project; and

23 (5) other energy-related and water-related assistance
24 that the office considers appropriate, if the assistance is
25 requested by a state agency, an institution of higher education, a
26 consortium of institutions of higher education, or another
27 governmental entity created by state law.

1 (b) Using available state, federal, or oil overcharge
2 funds, the state energy conservation office may provide technical
3 assistance to a state agency or an institution of higher education
4 in analyzing or negotiating rates for electricity or natural gas
5 supplies from a locally certificated electric supplier, a natural
6 gas supplier, or a state-owned energy resource, including a
7 transportation charge for natural gas.

8 (c) A state agency or an institution of higher education may
9 request the assistance of the state energy conservation office
10 before negotiating or contracting for the supply or transportation
11 of natural gas or electricity.

12 (d) A state agency or an institution of higher education
13 with expertise in rate analysis, negotiation, or any other matter
14 related to the procurement of electricity and natural gas supplies
15 from a locally certificated electric supplier, a natural gas
16 supplier, or a state-owned energy resource may assist the state
17 energy conservation office whenever practicable. The attorney
18 general on request shall assist the office and other state agencies
19 and institutions of higher education in negotiating rates for
20 electricity and other terms of electric utility service.

21 (e) Using available funds from any source, the state energy
22 conservation office may assist a state agency, an institution of
23 higher education, a consortium of institutions of higher education,
24 or another governmental entity created by state law to further the
25 goals and pursue the policies of the state in energy research as may
26 be determined by the governor or the legislature. The office may
27 assist a state agency in implementing current federal energy

1 policy.

2 (f) The state energy conservation office on request may
3 negotiate rates for electricity and other terms of electric utility
4 service for a state agency or an institution of higher education.
5 The office also may negotiate the rates and the other terms of
6 service for a group of agencies or institutions in a single
7 contract.

8 (g) The state energy conservation office may analyze the
9 rates for electricity charged to and the amount of electricity used
10 by state agencies and institutions of higher education to determine
11 ways the state could obtain lower rates and use less electricity.
12 Each state agency, including the Public Utility Commission of
13 Texas, and institution of higher education shall assist the office
14 in obtaining the information the office needs to perform its
15 analysis.

16 Sec. 447.007. ENERGY AND WATER AUDITS. (a) The state
17 energy conservation office may audit a state-owned building used by
18 a state agency to assist the agency in reducing energy and water
19 consumption and costs through improved energy and water efficiency.

20 (b) Based on any audit performed under Subsection (a), the
21 state energy conservation office may recommend changes to improve
22 energy and water efficiency.

23 (c) Each state agency or institution of higher education
24 shall review and audit utility billings and contracts to detect
25 billing errors. Any contract with a private person to conduct the
26 review or audit must comply with all applicable provisions of
27 Subchapter A, Chapter 2254, regarding professional services

1 contracts. The contract may not be awarded on a contingent fee
2 basis unless the governor determines that the contract is
3 necessary, reasonable, and prudent.

4 Sec. 447.008. ENERGY-SAVING AND WATER-SAVING DEVICES OR
5 MEASURES. (a) On approval by the state energy conservation office,
6 a state agency that reduces its energy or water expenses may use any
7 funds saved by the agency from appropriated utility funds for the
8 purchase of an energy-saving or water-saving device or measure.
9 For purposes of this section, "energy-saving or water-saving device
10 or measure" means a device or measure that directly reduces:

11 (1) energy or water costs; or

12 (2) the energy or water consumption of equipment,
13 including a lighting, heating, ventilation, air-conditioning
14 system, or other water-using system, without materially altering
15 the quality of the equipment.

16 (b) A state agency, in accordance with the recommendations
17 of an energy or water audit, may purchase energy-saving and
18 water-saving devices or measures from appropriated utility funds if
19 the savings in utility funds projected by the audit will offset the
20 purchase. The agency shall retain in its files a copy of the
21 recommendation and repayment schedule as evidence of the projected
22 savings.

23 Sec. 447.009. ENERGY AND WATER MANAGEMENT PLANNING. (a)
24 The state energy conservation office shall provide energy and water
25 management planning assistance to a state agency or an institution
26 of higher education, including:

27 (1) preparation by the agency or institution of a

1 long-range plan for the delivery of reliable, cost-effective
2 utility services for the state agency or institution;

3 (2) assistance to the Department of Public Safety for
4 energy emergency contingency planning, using state or federal funds
5 when available;

6 (3) assistance to each state agency or institution of
7 higher education in preparing comprehensive energy and water
8 management plans; and

9 (4) assistance to state agencies other than
10 institutions of higher education in meeting the requirements of
11 Section 447.002, including assistance in scheduling and assigning
12 priorities to implementation plans to ensure that state agencies
13 adopt qualified cost-effective efficiency measures and programs
14 for all state facilities not later than September 1, 2006.

15 (b) A state agency or an institution of higher education
16 shall develop the plan described in Subsection (a)(1) and submit
17 the plan to the state energy conservation office upon request. The
18 agency or institution shall use the plan in preparing its five-year
19 construction and major renovation plans. After other energy-saving
20 or water-saving alternatives are considered, district heating and
21 cooling or on-site generation of electricity may be considered in
22 planning for reliable, efficient, and cost-effective utility
23 services.

24 (c) The state energy conservation office shall prepare
25 guidelines for preparation of the plan described in Subsection
26 (a)(3). A state agency or an institution of higher education that
27 occupies a state-owned building shall prepare and implement a

1 five-year energy and water management plan and shall submit that
 2 plan to the office upon request. The agency or institution shall
 3 update its plan biennially. A state agency or an institution of
 4 higher education that occupies a building not owned by the state
 5 shall cooperate with the office in addressing the energy or water
 6 management of that building.

7 (d) The comprehensive energy and water management plan
 8 described in Subsection (a)(3) shall be included in the five-year
 9 construction and major repair and rehabilitation plans for
 10 institutions of higher education as required by Section 61.0651,
 11 Education Code.

12 SECTION 30. Subchapter A, Chapter 609, Government Code, is
 13 amended by adding Section 609.014 to read as follows:

14 Sec. 609.014. COORDINATION OF PLANS. Notwithstanding any
 15 other provision of this chapter, an institution of higher
 16 education, as defined by Section 61.003, Education Code,
 17 participating in a group benefits program under Chapter 1551,
 18 Insurance Code, may participate under this chapter only in a
 19 deferred compensation plan described by Subchapter C.

20 SECTION 31. Section 659.102, Government Code, is amended by
 21 amending Subsection (c) and adding Subsection (d) to read as
 22 follows:

23 (c) The supplemental optional benefits program may include
 24 permanent life insurance, catastrophic illness insurance,
 25 disability insurance, ~~or~~ prepaid legal services, or a qualified
 26 transportation benefit.

27 (d) A qualified transportation benefit is a transportation

1 benefit meeting the requirements of Section 132(f), Internal
2 Revenue Code of 1986. The Employees Retirement System of Texas
3 shall determine a fee or charge that may be paid as a qualified
4 transportation benefit.

5 SECTION 32. Subchapter G, Chapter 659, Government Code, is
6 amended by adding Section 659.1031 to read as follows:

7 Sec. 659.1031. DEDUCTION OF MEMBERSHIP FEES FOR ELIGIBLE
8 STATE EMPLOYEE ORGANIZATIONS. (a) An employee of a state agency
9 may authorize in writing a deduction each pay period from the
10 employee's salary or wage payment for payment to an eligible state
11 employee organization of a membership fee in the organization.

12 (b) In this section, "eligible state employee organization"
13 means a state employee organization with a membership of at least
14 2,000 active or retired state employees who hold or who have held
15 certification from the Commission on Law Enforcement Officer
16 Standards and Education.

17 SECTION 33. Section 659.104(a), Government Code, is amended
18 to read as follows:

19 (a) An authorization for a deduction under this subchapter
20 must direct the comptroller or, if applicable, the appropriate
21 financial officer of an institution of higher education to transfer
22 the withheld funds to the program, eligible state employee
23 organization, or credit union designated by the employee.

24 SECTION 34. Section 659.110, Government Code, is amended to
25 read as follows:

26 Sec. 659.110. RULES. The comptroller may establish
27 procedures and adopt rules to administer the credit union and the

1 eligible state employee organization membership fee deduction
2 programs ~~[program]~~ authorized by this subchapter.

3 SECTION 35. Section 659.131(8), Government Code, is amended
4 to read as follows:

5 (8) "Indirect services" means ~~[health and human]~~
6 services that:

7 (A) enable, augment, or otherwise support the
8 ~~[are not]~~ direct delivery of health and human services; and

9 (B) demonstrably benefit residents of this
10 state.

11 SECTION 36. Section 659.146(c), Government Code, is amended
12 to read as follows:

13 (c) A federation or fund that seeks statewide participation
14 in a state employee charitable campaign must apply on behalf of
15 itself and its affiliated agencies to the state policy committee
16 during the annual eligibility determination period specified by the
17 committee. The state policy committee shall review each
18 application and may approve a federation or fund for statewide
19 participation only if the federation or fund qualifies as a
20 statewide charitable organization ~~[or as an international~~
21 ~~federation or fund]~~. The state policy committee may approve an
22 affiliated charitable organization for statewide participation
23 only if the organization qualifies as a statewide charitable
24 organization ~~[or is an affiliated agency of an international~~
25 ~~federation or fund]~~.

26 SECTION 37. Section 659.150(b), Government Code, is amended
27 to read as follows:

(b) A participating charitable organization may not use contributions under this subchapter to:

(1) directly or indirectly fund ~~conduct~~ litigation; or

(2) make expenditures that would require the organization to register under Chapter 305 if the organization were not an entity exempt from registration under that chapter.

SECTION 38. Section 659.253, Government Code, is amended to read as follows:

Sec. 659.253. TRANSFER WITHIN AGENCY FROM EXEMPT TO CLASSIFIED POSITION. (a) Except as provided by Subsection (b), a ~~[A]~~ state employee who transfers ~~[moves]~~ within a state agency from an exempt [a] position ~~[exempt from the state's position classification plan]~~ to a classified position is entitled to ~~[will]~~ receive an annual salary in the ~~[proper]~~ salary group to which the classified position is allocated.

(b) During the fiscal biennium in which a state employee transfers within a state agency from an exempt position to a classified position, the employee's annual salary rate after the transfer may not ~~[to]~~ exceed:

(1) the rate for the salary step equal to the rate received by the employee when holding the ~~[employee's current]~~ exempt position ~~[salary]~~ or the rate for the next higher salary step, if the classified position is allocated ~~[moving]~~ to a ~~[position in a]~~ salary group that is divided into steps; or

(2) the rate received by the employee when holding the ~~[employee's current]~~ exempt position ~~[salary]~~ or the maximum rate

1 of the ~~[new]~~ salary group to which the classified position is
 2 allocated, whichever is lower, if the classified position is
 3 allocated to ~~[moving to a position in]~~ a salary group that is not
 4 divided into steps.

5 ~~[(b) Except as provided by this section, a state agency that~~
 6 ~~at any time during a state fiscal biennium pays a state employee an~~
 7 ~~exempt salary specifically established in the General~~
 8 ~~Appropriations Act may not subsequently during the state fiscal~~
 9 ~~biennium pay the employee a greater salary under Salary Schedule A,~~
 10 ~~B, or C of the General Appropriations Act.]~~

11 (c) A merit salary increase for ~~[state agency that pays]~~ a
 12 state employee who transfers to a classified position from an
 13 exempt position for which the ~~[an exempt]~~ salary is specifically
 14 established in the General Appropriations Act ~~[and that then~~
 15 ~~transfers the employee to a position in which the employee is paid~~
 16 ~~under Salary Schedule A, B, or C of the General Appropriations Act]~~
 17 may not take effect if:

18 (1) the employee has spent less than ~~[grant a merit~~
 19 ~~salary increase to the employee until at least]~~ six months in the
 20 classified position; or

21 (2) the increase would cause the salary limitation
 22 prescribed by Subsection (b) to be exceeded ~~[after the date that the~~
 23 ~~agency begins to pay the employee under Salary Schedule A, B, or C~~
 24 ~~of the General Appropriations Act].~~

25 (d) The Legislative Budget Board and the governor together
 26 may approve an exception to the salary limitations prescribed by
 27 Subsection (b) ~~[this section]~~ for a state employee:

1 (1) on receiving the employing state agency's
2 application for the exception; and

3 (2) if the employee's job responsibilities with the
4 state agency have changed substantially during the [~~state fiscal~~]
5 biennium.

6 (e) In this section:

7 (1) "Classified position" means a position classified
8 under the state's position classification plan.

9 (2) "Exempt position" means a position exempt from the
10 state's position classification plan.

11 SECTION 39. Subchapter K, Chapter 659, Government Code, is
12 amended by adding Section 659.2531 to read as follows:

13 Sec. 659.2531. TRANSFER WITHIN AGENCY BETWEEN CLASSIFIED
14 POSITIONS ALLOCATED TO SAME SALARY GROUP. (a) In this section:

15 (1) "Classified position" means a position classified
16 under the state's position classification plan.

17 (2) "Transfer" means the transfer of a state employee
18 within a state agency between two classified positions that:

19 (A) are allocated to the same salary group; and

20 (B) have different position titles as listed in
21 the General Appropriations Act.

22 (b) Except as provided by Subsection (c), a state employee's
23 annual salary rate immediately after a transfer may not exceed:

24 (1) the rate for the salary step that is one step
25 higher than the salary step at which the employee was paid
26 immediately before the transfer, if the classified position to
27 which the employee transfers is allocated to a salary group that is

1 divided into steps; or

2 (2) 103.4 percent of the employee's annual salary rate
3 immediately before the transfer, if the classified position to
4 which the employee transfers is allocated to a salary group that is
5 not divided into steps.

6 (c) A state employee's annual salary rate immediately after
7 a transfer may not exceed the maximum rate for the appropriate
8 salary group.

9 SECTION 40. Section 659.255, Government Code, is amended to
10 read as follows:

11 Sec. 659.255. MERIT SALARY INCREASES; ONE-TIME MERIT
12 PAYMENTS. (a) In this [This] section:

13 (1) "Classified employee" means a state employee who
14 holds a classified position.

15 (2) "Classified position" means a position [applies
16 only to positions] classified under the state's position
17 classification plan.

18 (3) "Merit salary increase" means an increase in
19 compensation to:

20 (A) a higher step rate in the same classified
21 salary group, if the classified employee is compensated under
22 Salary Schedule A of the General Appropriations Act; or

23 (B) a higher rate within the range of the same
24 classified salary group, if the classified employee is compensated
25 under Salary Schedule B of the General Appropriations Act.

26 (b) ~~[A state agency administrator may grant merit salary~~
27 ~~increases including one-time merit payments to employees~~

1 ~~compensated under Salary Schedules A and B of the General~~
 2 ~~Appropriations Act whose job performance and productivity are~~
 3 ~~consistently above that normally expected or required. For~~
 4 ~~classified employees compensated under Salary Schedule A of the~~
 5 ~~General Appropriations Act, a merit increase involves an increase~~
 6 ~~in an employee's salary to a higher step rate in the same salary~~
 7 ~~group. For classified employees compensated under Salary Schedule~~
 8 ~~B of the General Appropriations Act, a merit increase involves an~~
 9 ~~increase in an employee's salary to a higher rate within the range~~
 10 ~~of the same salary group. Merit increases including one-time merit~~
 11 ~~payments are subject to the restrictions prescribed by Subsections~~
 12 ~~(c)-(e).~~

13 ~~[(c)]~~ The comptroller shall prescribe accounting and
 14 reporting procedures as necessary to ensure the availability of
 15 information reflecting each state agency's use of merit salary
 16 increases, including one-time merit payments.

17 (c) Each state agency shall establish:

18 (1) a procedure for determining the eligibility of a
 19 classified employee to receive a merit salary increase or a
 20 one-time merit payment from the agency; and

21 (2) requirements for substantiating the eligibility
 22 of a classified employee who receives a merit salary increase or a
 23 one-time merit payment from the agency.

24 (d) Merit salary increases and ~~[including]~~ one-time merit
 25 payments shall be applied throughout the range of classified salary
 26 groups used by each state agency.

27 (e) A state agency may award a merit salary increase to a

classified employee in relation to the employee's performance in
the current classified position held by the employee if [~~For an~~
~~employee to be eligible for a merit salary increase or a one-time~~
~~merit payment, the following additional criteria must be met~~]:

(1) the employee has [~~must have~~] been employed by the
~~[state]~~ agency in that position for at least six continuous months
before [~~prior to~~] the effective date [~~award~~] of the increase [~~or~~
~~payment~~];

(2) the effective date of the increase is at least six
months after the effective date of the employee's [~~must have~~
~~elapsed since the employee's~~] last:

(A) promotion; [~~, enhanced compensation award~~
~~authorized by the General Appropriations Act, one-time merit~~
~~payment,~~] or

(B) merit salary increase for performance in that
position [~~at the agency~~]; [~~and~~]

(3) the agency has complied with Subsection (c);

(4) the employee's job performance and productivity in
that position are consistently above that normally expected or
required; and

(5) the effective date of the increase is at least six
months after the effective date of the agency's last:

(A) payment to the employee of an enhanced
compensation award authorized by the General Appropriations Act; or

(B) one-time merit payment for performance in
that position.

(f) A state agency may make a one-time merit payment to a

1 classified employee in relation to the employee's performance in
2 the current classified position held by the employee if:

3 (1) the employee has been employed by the agency in
4 that position for at least six continuous months before the
5 effective date of the payment;

6 (2) the effective date of the payment is at least six
7 months after the effective date of the employee's last:

8 (A) promotion; or

9 (B) merit salary increase for performance in that
10 position;

11 (3) the agency has complied with Subsection (c);

12 (4) the employee's job performance and productivity in
13 that position are consistently above that normally expected or
14 required; and

15 (5) the effective date of the payment is at least six
16 months after the effective date of the agency's last:

17 (A) payment to the employee of an enhanced
18 compensation award authorized by the General Appropriations Act; or

19 (B) one-time merit payment for performance in
20 that position. [~~criteria for granting merit salary increases or~~
21 ~~one-time merit payments must include specific criteria and~~
22 ~~documentation to substantiate the granting of a merit increase or~~
23 ~~one-time merit payment.]~~

24 SECTION 41. Section 659.260, Government Code, is amended to
25 read as follows:

26 Sec. 659.260. TEMPORARY ASSIGNMENT. (a) [~~This section~~
27 ~~applies only to an employee whose permanent position is classified~~

~~under the state's position classification plan.~~

~~[(b)]~~ To facilitate a state agency's work during an emergency or other special circumstance, an employee may be temporarily assigned to other duties for a period not to exceed six months. The employee is entitled to receive during the period of reassignment at least the same rate of pay that the employee received immediately before the reassignment. An employee may not be temporarily assigned under this subsection to a position classified in a salary group with a lower minimum salary rate.

(b) ~~[(c)]~~ An employee may not be assigned temporary duties under this section for more than six months during a twelve-month period.

(c) ~~[(d)]~~ An employee temporarily designated to act as the administrative head of a state agency may continue to receive a salary for a classified position in an amount not to exceed the amount established by the General Appropriations Act for the administrative head of the agency.

(d) ~~[(e)]~~ While the employee is temporarily assigned under this section, the state agency may not:

- (1) award a merit salary increase to the employee; or
- (2) promote or demote the employee.

SECTION 42. Subchapter K, Chapter 659, Government Code, is amended by adding Section 659.262 to read as follows:

Sec. 659.262. ADMINISTRATION. The comptroller may establish procedures and adopt rules to administer this subchapter.

SECTION 43. Section 661.152(d), Government Code, is amended to read as follows:

(d) An employee accrues vacation leave and may carry vacation leave forward from one fiscal year to the next in accordance with the following schedule:

	Hours Accrued	Maximum Hours Carried Forward
Employees With Total State Employment of:	Per Month for Full-time Employment	From One Fiscal Year to the Next for a Full-time Employee
less than 2 years	<u>8</u> [7]	<u>180</u> [168]
at least 2 but less than 5 years	<u>9</u> [8]	<u>244</u> [232]
at least 5 but less than 10 years	<u>10</u> [9]	<u>268</u> [256]
at least 10 but less than 15 years	<u>11</u> [10]	<u>292</u> [280]
at least 15 but less than 20 years	<u>13</u> [12]	<u>340</u> [328]
at least 20 but less than 25 years	<u>15</u> [14]	<u>388</u> [376]
at least 25 but less than 30 years	<u>17</u> [16]	<u>436</u> [424]
at least 30 but less than 35 years	<u>19</u> [18]	<u>484</u> [472]
at least 35 years or more	<u>21</u> [20]	<u>532</u> [520]

SECTION 44. Section 661.152(e), Government Code, is amended to read as follows:

(e) In this subsection, "duty day" means an employee's last physical day on the job. An employee accrues vacation leave at the applicable rate beginning on the first day of state employment and ending on the last duty day of state employment. An employee accrues and is entitled to be credited for one month's vacation leave for each month of employment with the state beginning on the first day of employment with the state and on the first calendar day

1 of each succeeding month of state employment. An employee who is
2 employed by the state during any part of a calendar month accrues
3 vacation leave entitlement for the entire calendar month.

4 SECTION 45. Section 661.202(b), Government Code, is amended
5 to read as follows:

6 (b) In this subsection, duty day means an employee's last
7 physical day on the job. An employee accrues sick leave beginning
8 on the first day of state employment and ending on the last duty day
9 of state employment. An employee is entitled to be credited for one
10 month's accrual of sick leave at the rate specified by Subsection
11 (c) for each month of employment with the state beginning on the
12 first day of employment with the state and on the first calendar day
13 of each succeeding month of state employment.

14 SECTION 46. Section 661.206(b), Government Code, is amended
15 to read as follows:

16 (b) An employee may use up to eight hours of sick leave each
17 fiscal ~~[calendar]~~ year to attend parent-teacher conference
18 sessions for the employee's children.

19 SECTION 47. Section 661.010, Government Code, is amended to
20 read as follows:

21 Sec. 662.010. HOLIDAY BEFORE WORK BEGINS OR AFTER WORK
22 ENDS. (a) An individual must be a state employee on the workday
23 before and after a state or national holiday in order to be paid for
24 that holiday, unless the holiday falls on the employee's first or
25 last workday of the month ~~[who is not a state employee on the last~~
26 ~~workday before a state or national holiday but who is a state~~
27 ~~employee on the first workday after the holiday may not be paid for~~

1 ~~the holiday if it occurs during the same month as the last workday~~
2 ~~before the holiday]~~.

3 (b) ~~[An individual who is a state employee on the last~~
4 ~~workday before a state or national holiday but who is not a state~~
5 ~~employee on the first workday after the holiday may not be paid for~~
6 ~~the holiday if it occurs before the first workday of a month and~~
7 ~~during the month.~~

8 ~~[(c)]~~ In this section, "state employee":

9 (1) includes an individual who uses paid leave from a
10 state agency; and

11 (2) does not include an individual who uses unpaid
12 leave from a state agency.

13 SECTION 48. Subchapter A, Chapter 811, Government Code, is
14 amended by adding Sections 811.007 and 811.008 to read as follows:

15 Sec. 811.007. IMMUNITY FROM LIABILITY. The board of
16 trustees, executive director, and employees of the retirement
17 system are not liable for any action taken or omission made or
18 suffered by them in good faith in the performance of any duty in
19 connection with any program or system administered by the
20 retirement system.

21 Sec. 811.008. INSURANCE. Notwithstanding any other law,
22 the board of trustees may self-insure or purchase any insurance in
23 amounts the board considers reasonable and prudent.

24 SECTION 49. The heading to Section 813.104, Government
25 Code, is amended to read as follows:

26 Sec. 813.104. ALTERNATIVE PAYMENTS AND METHODS TO ESTABLISH
27 OR REESTABLISH SERVICE CREDIT.

1 SECTION 50. Section 813.104, Government Code, is amended by
2 adding Subsection (e) to read as follows:

3 (e) The retirement system may provide for the electronic
4 filing of agreements to establish or reestablish service credit.
5 In this subsection, "electronic filing" has the meaning assigned by
6 Section 814.010(a).

7 SECTION 51. Subchapter A, Chapter 814, Government Code, is
8 amended by adding Section 814.010 to read as follows:

9 Sec. 814.010. ELECTRONIC FILING OF BENEFICIARY
10 DESIGNATION. (a) In this section, "electronic filing" means the
11 filing of data in the form of digital electronic signals
12 transformed by computer and stored on magnetic tape, optical disks,
13 or any other medium.

14 (b) A person entitled to designate a beneficiary under any
15 system or program administered by the retirement system may make
16 the designation by electronic filing under procedures adopted by
17 the retirement system.

18 SECTION 52. Section 815.103, Government Code, is amended by
19 adding Subsection (f) to read as follows:

20 (f) Chapter 412, Labor Code, does not apply to the
21 retirement system. The board of trustees may acquire services
22 described by that chapter in any manner or amount the board
23 considers reasonable.

24 SECTION 53. Section 832.002, Government Code, is amended to
25 read as follows:

26 Sec. 832.002. MEMBERSHIP FEE. (a) Each member of the
27 retirement system annually shall pay the system a membership fee of

\$10. A contributing member shall pay the fee with the member's first contribution to the retirement system in each fiscal year in the manner provided by Section 835.101 for payment of the member's contribution to the retirement system.

(b) If the membership fee is not paid with the member's first contribution of the fiscal year to the retirement system, the board of trustees may deduct the amount of the fee from that contribution or from any benefit to which the member becomes entitled.

SECTION 54. Sections 2101.0115(a) and (b), Government Code, are amended to read as follows:

(a) A state agency shall submit an annual report to:

(1) the governor;

(2) ~~[the comptroller];~~

~~[(3)]~~ the Legislative Reference Library;

(3) ~~[(4)]~~ the state auditor; and

(4) ~~[(5)]~~ the Legislative Budget Board.

(b) A state agency's annual report must cover an entire fiscal year. The agency shall submit the report not later than December 31 of each year ~~[the date and in the form prescribed by the comptroller]~~.

SECTION 55. Section 2113.205(b), Government Code, is amended to read as follows:

(b) The comptroller may authorize a ~~[A]~~ state agency to ~~[may]~~ use money appropriated for a particular fiscal year to pay the entire cost or amount of a service, including an Internet connection, a periodical subscription, a maintenance contract, a

1 post office box rental, insurance, or a surety or honesty bond,
2 regardless of whether the service is provided over [~~it covers~~] more
3 than one fiscal year.

4 SECTION 56. Section 2162.001, Government Code, is amended
5 to read as follows:

6 Sec. 2162.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

7 (1) "Council" [~~,"council"~~] means the State Council on
8 Competitive Government.

9 (2) "Local government" means a county, municipality,
10 special district, school district, junior college district, or
11 other legally constituted political subdivision of the state.

12 SECTION 57. Section 2162.102, Government Code, is amended
13 by adding Subsection (d) to read as follows:

14 (d) To the extent the council determines is feasible, a
15 local government may voluntarily participate in a contract awarded
16 by the council or a state agency under this chapter. A local
17 government that purchases a good or a service under a contract
18 awarded under this chapter is considered to have satisfied any
19 state law requiring the local government to follow a competitive
20 purchasing procedure for the purchase.

21 SECTION 58. Section 2166.406, Government Code, as amended
22 by Chapter 573, Acts of the 77th Legislature, Regular Session,
23 2001, is amended to read as follows:

24 Sec. 2166.406. ENERGY SAVINGS PERFORMANCE CONTRACTS [~~OR~~
25 ~~WATER CONSERVATION MEASURES~~]. (a) In this section, "energy
26 savings performance contract" means a contract for energy or water
27 conservation measures to reduce energy or water consumption or

operating costs of governmental facilities in which the estimated savings in utility costs resulting from the measures is guaranteed to offset the cost of the measures over a specified period. The term
~~[Notwithstanding any other provisions of this chapter, the governing body of a state agency, without the consent of the commission, may enter into a contract for energy conservation measures to reduce energy or water consumption or operating costs of governmental facilities in accordance with this section.]~~

~~[(b) A contract authorized under this section]~~ includes a contract for the installation of:

(1) insulation of a ~~[the]~~ building structure and systems within the building;

(2) storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption;

(3) automatic energy control systems, including computer software and technical data licenses;

(4) heating, ventilating, or air-conditioning system modifications or replacements that reduce energy or water consumption;

(5) lighting fixtures that increase energy efficiency;

(6) energy recovery systems;

(7) electric systems improvements;

(8) water-conserving fixtures, appliances, and equipment or the substitution of non-water-using fixtures,

1 appliances, and equipment;

2 (9) water-conserving landscape irrigation equipment;

3 (10) landscaping measures that reduce watering
4 demands and capture and hold applied water and rainfall, including:

5 (A) landscape contouring, including the use of
6 berms, swales, and terraces; and

7 (B) the use of soil amendments that increase the
8 water-holding capacity of the soil, including compost;

9 (11) rainwater harvesting equipment and equipment to
10 make use of water collected as part of a storm-water system
11 installed for water quality control;

12 (12) equipment for recycling or reuse of water
13 originating on the premises or from other sources, including
14 treated municipal effluent;

15 (13) equipment needed to capture water from
16 nonconventional, alternate sources, including air conditioning
17 condensate or graywater, for nonpotable uses;

18 (14) metering equipment needed to segregate water use
19 in order to identify water conservation opportunities or verify
20 water savings; or

21 (15) other energy or water conservation-related
22 improvements or equipment including improvements or equipment
23 related to renewable energy or nonconventional water sources or
24 water reuse.

25 (b) Notwithstanding any other provision of this chapter, a
26 state agency, without the consent of the commission, may enter into
27 an energy savings performance contract in accordance with this

1 section.

2 (c) Each ~~[All]~~ energy or water conservation measure
3 ~~[measures]~~ must comply with current local, state, and federal
4 construction, plumbing, and environmental codes and regulations.
5 Notwithstanding ~~[anything to the contrary in]~~ Subsection (a) ~~[(b)]~~,
6 an energy savings performance ~~[a]~~ contract may ~~[for energy or water~~
7 ~~conservation measures shall]~~ not include improvements or equipment
8 that allow or cause water from any condensing, cooling, or
9 industrial process or any system of nonpotable usage over which the
10 public water supply system officials do not have sanitary control
11 to be returned to the potable water supply.

12 (d) A state agency may enter into energy savings performance
13 ~~[The entity with whom the board]~~ contracts only with a person who is
14 ~~[must be]~~ experienced in the design, implementation, and
15 installation of the energy or water conservation measures addressed
16 by the contract.

17 (e) Before entering into an energy savings performance ~~[a]~~
18 contract ~~[for energy or water conservation measures]~~, a ~~[the~~
19 ~~governing body of the]~~ state agency shall require the provider of
20 the energy or water conservation measures to file with the agency
21 ~~[governing body]~~ a payment and performance bond relating to the
22 installation of the measures in accordance with Chapter 2253. The
23 agency may also require a separate bond to cover the value of the
24 guaranteed savings on the contract ~~[that is in an amount the~~
25 ~~governing body finds reasonable and necessary to protect the~~
26 ~~interests of the state agency and that is conditioned on the~~
27 ~~faithful execution of the terms of the contract]~~.

(f) The state agency may enter into an energy savings performance ~~[a]~~ contract for a period of more than one year only ~~[for energy or water conservation measures with an entity]~~ if the state agency finds that the amount the state agency would spend on the energy or water conservation measures will not exceed the amount to be saved in energy, water, wastewater, and operating costs over 15 years from the date of installation.

(g) An energy savings performance contract ~~[Energy or water conservation measures]~~ with respect to existing buildings or facilities may be financed:

(1) under a lease/purchase contract that has a term not to exceed 15 years from the final date of installation and that meets federal tax requirements for tax-free municipal leasing or long-term financing, including a lease/purchase contract under the master equipment lease purchase program administered by the Texas Public Finance Authority under Chapter 1232;

(2) with the proceeds of bonds; or

(3) under a contract with the provider of the energy or water conservation measures that has a term not to exceed 15 years from the final date of installation.

(h) An energy savings performance ~~[A]~~ contract ~~[for energy or water conservation measures]~~ shall contain provisions requiring ~~[pursuant to which]~~ the provider of the energy or water conservation measures to guarantee ~~[guarantees]~~ the amount of the savings to be realized by the state agency under the contract. If the term of the ~~[a]~~ contract ~~[for energy or water conservation measures]~~ exceeds one year, the agency's contractual obligation,

1 including costs of design, engineering, installation, and
2 anticipated debt service, in any one year during the term of the
3 contract beginning after the final date of installation may not
4 exceed the total energy, water, wastewater, and operating cost
5 savings, including ~~[but not limited to]~~ electrical, gas, water,
6 wastewater, or other utility cost savings and operating cost
7 savings resulting from the measures ~~[automatic monitoring and~~
8 ~~control]~~, as determined by the state agency in this subsection,
9 divided by the number of years in the contract term.

10 (i) An energy savings performance [A] contract shall ~~[under~~
11 ~~this section may]~~ be let according to the procedures established
12 for procuring certain professional services by Section 2254.004
13 ~~[under competitive sealed proposal procedures]~~. Notice of the
14 request for qualifications ~~[proposals]~~ shall be given in the manner
15 provided by Section 2156.002 ~~[for in Chapter 2156]~~. The State
16 Energy Conservation Office shall establish guidelines and an
17 approval process for awarding energy savings performance contracts
18 ~~[awarded under this section]~~. The guidelines adopted under this
19 subsection must require that the cost savings projected by an
20 offeror be reviewed by a licensed professional engineer who is not
21 an officer or employee of an offeror for the contract under review
22 or otherwise associated with the contract. An engineer who reviews
23 a contract shall maintain the confidentiality of any proprietary
24 information the engineer acquires while reviewing the contract. An
25 energy savings performance contract may not be entered into unless
26 the contract has been approved by the State Energy Conservation
27 Office. Sections 1001.053 and 1001.407, Occupations Code, apply

~~[Section 19, The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), applies] to work performed under the contract. [The contract shall be awarded to the responsible offeror whose proposal, following negotiations, is determined to be the most advantageous to the state agency considering the savings and other evaluation factors set forth in the request for proposals except that if the state agency finds that no offer is acceptable, it shall refuse all offers.]~~

~~(j) [In accordance with regulations adopted by the state agency, the state agency may conduct discussions with offerors who submit proposals and who are determined to be reasonably qualified for the award of the contract. Offerors shall be treated fairly and equally with respect to any opportunity for discussion and revision of proposals.]~~

~~[(k) If provided in a request for proposals, proposals shall be opened in a manner that avoids disclosure of the contents to competing offerors and keeps the proposals secret during negotiations. All proposals are open for public inspection after a contract is awarded unless the information is excepted from disclosure under Chapter 552.]~~

~~[(l) To obtain the best final offers, the state agency may allow proposal revisions after submissions and before the award of a contract for energy or water conservation measures. Final review and approval of the contract will be provided by the State Energy Conservation Office.]~~

~~[(m)] The legislature shall base an agency's appropriation for energy, water, and wastewater costs during a fiscal year on the~~

sum of:

(1) the agency's estimated energy, water, and wastewater costs for that fiscal year; and

(2) if an energy savings performance ~~[a]~~ contract ~~[under this section]~~ is in effect, the agency's estimated net savings resulting from the contract during the contract term, divided by the number of years in the contract term.

SECTION 59. Section 2201.002, Government Code, is amended to read as follows:

Sec. 2201.002. USE OF FUND. ~~[(a)]~~ The fund may be used ~~[only]~~ to finance:

(1) the acquisition, construction, repair, improvement, or equipping of a building by a state agency for a state purpose;

(2) the acquisition of real or personal property necessary for a state agency to take an action described by Subdivision (1); ~~[or]~~

(3) the administration of the asset management division of the General Land Office; or

(4) any other purpose for which funds may be appropriated from general revenue.

~~[(b) The fund may not be used to pay for an activity of:~~

~~[(1) the Texas Department of Transportation,~~

~~[(2) an institution of higher education as defined by Section 61.003, Education Code,~~

~~[(3) the Texas State Technical College System,~~

~~[(4) the Southwest Collegiate Institute for the Deaf,~~

1 ~~[(5) the Employees Retirement System of Texas, or~~

2 ~~[(6) the Teacher Retirement System of Texas.~~

3 ~~[(c) The fund may not be used to pay salaries.]~~

4 SECTION 60. Section 2201.003(b), Government Code, is
5 amended to read as follows:

6 (b) At the end of each fiscal biennium the unencumbered
7 balance of the fund ~~[in excess of \$500 million]~~ shall be transferred
8 to the credit of the general revenue fund.

9 SECTION 61. Section 2251.025(b), Government Code, is
10 amended to read as follows:

11 (b) The rate of interest that ~~[Interest]~~ accrues on an
12 overdue payment is ~~[at]~~ the rate in effect on September 1 of the
13 fiscal year in which the payment becomes overdue. The rate in
14 effect on September 1 is equal to the sum of:

15 (1) one percent; and

16 (2) the prime rate as published in the Wall Street
17 Journal on the first day of July of the preceding fiscal year that
18 does not fall on a Saturday or Sunday ~~[each month]~~.

19 SECTION 62. Section 2252.903(e), Government Code, is
20 amended by adding Subdivision (4) to read as follows:

21 (4) "Written contract" does not include a contract the
22 payments for which must be made through the comptroller's issuance
23 of warrants or initiation of electronic funds transfers under
24 Section 404.046, 404.069, or 2103.003.

25 SECTION 63. Section 2305.012, Government Code, is amended
26 to read as follows:

27 Sec. 2305.012. ADMINISTRATION ~~[STAFF]~~; ASSISTANCE. (a)

1 The energy office shall ~~[provide staff to]~~ implement and administer
2 this chapter.

3 (b) The energy office or the governor through the energy
4 office may ~~[also]~~ enlist the assistance of a private entity or a
5 state agency, department, commission, or other entity to:

6 (1) evaluate or review a proposal;

7 (2) audit a program participant or a supervising state
8 agency;

9 (3) perform administrative duties under this chapter;

10 or

11 (4) develop eligibility or evaluation criteria.

12 SECTION 64. Section 2305.032(a), Government Code, is
13 amended to read as follows:

14 (a) The energy office under the loanstar revolving loan
15 program may ~~[approve and finance projects that]~~ provide loans to
16 finance energy and water efficiency measures for public facilities
17 ~~[eligible applicants for energy-saving capital improvements.~~
18 ~~Projects approved by the energy office should benefit:~~

19 ~~[(1) a state agency or institution of higher~~
20 ~~education,~~

21 ~~[(2) a public school,~~

22 ~~[(3) a political subdivision of the state,~~

23 ~~[(4) a small to medium-sized business, and~~

24 ~~[(5) a public or nonprofit hospital or health care~~
25 ~~facility].~~

26 SECTION 65. Sections 2305.033(b) and (d), Government Code,
27 are amended to read as follows:

1 (b) In accordance with Part D, Title III [~~B~~], Energy Policy
2 and Conservation Act (42 U.S.C. Sec. 6321 et seq.), and its
3 subsequent amendments, the energy office, under the program, shall
4 distribute funds for projects that save measurable quantities of
5 energy.

6 (d) A proposal under Subsection (b) must:

7 (1) promote the conservation of energy; or [~~and~~]

8 (2) improve the efficient use of energy through
9 activities that result in quantifiable energy savings, including:

10 (A) energy audits of buildings;

11 (B) technical assistance in reducing energy
12 bills;

13 (C) training to building operators and fiscal
14 officers on various energy issues such as utility bill analysis and
15 energy management techniques; or [~~and~~]

16 (D) other technical assistance to programs for
17 which funds are appropriated.

18 SECTION 66. Section 2305.034, Government Code, is amended
19 to read as follows:

20 Sec. 2305.034. STATE AGENCIES PROGRAM. The energy office
21 is the supervising agency for the state agencies program that may
22 distribute funds through Chapter 447. Projects funded under this
23 section may include:

24 (1) energy manager training;

25 (2) energy savings performance contracting services,
26 including:

27 (A) education and training;

(B) contract review and approval;

(C) third-party contract review;

(D) development and dissemination of guidelines;

and

(E) identification of contract financing sources

~~[described by Section 51.927, Education Code];~~

(3) energy-efficient design assistance for new facilities, including major renovation;

(4) projects for state building design standards compliance;

(5) projects to create awareness of model energy codes at the local and state levels;

(6) projects to develop and maintain the state's utility database; and

(7) other appropriate energy and information applications.

SECTION 67. Section 2305.039(b), Government Code, is amended to read as follows:

(b) A project may:

(1) assist a service provider in providing services such as:

(A) ~~[traffic light synchronization,~~

~~[(B) fleet management,~~

~~[(C)]~~ computerized transit routing that is energy efficient;

(B) commuting solutions

~~[(D) car-care clinics,~~

1 ~~[(E) vanpooling or ridesharing efforts]; and~~
2 (C) ~~[(F)]~~ public education related to mass
3 transit;

4 ~~[(C) driver training in energy conservation~~
5 ~~awareness; and~~

6 ~~[(H) transportation services for the elderly or~~
7 ~~persons with a disability;]~~ and

8 (2) include studies to improve existing systems and
9 plan for future transportation systems in this state.

10 SECTION 68. Section 2306.783(a), Government Code, as added
11 by Chapter 432, Acts of the 77th Legislature, Regular Session,
12 2001, is amended to read as follows:

13 (a) The Texas Interagency Council for the Homeless is
14 composed of:

15 (1) one representative from each of the following
16 agencies, appointed by the administrative head of that agency:

17 (A) the Texas Department of Health;
18 (B) the Texas Department of Human Services;
19 (C) the Texas Department of Mental Health and
20 Mental Retardation;

21 (D) the Texas Department of Criminal Justice;
22 (E) the Texas Department on Aging;
23 (F) the Texas Rehabilitation Commission;
24 (G) the Texas Education Agency;
25 (H) the Texas Commission on Alcohol and Drug
26 Abuse;

27 (I) the Department of Protective and Regulatory

Services;

(J) the Health and Human Services Commission;

(K) the Texas Workforce Commission;

(L) the Texas Youth Commission; and

(M) the Texas Veterans Commission;

(2) ~~[one representative from the office of the comptroller appointed by the comptroller,~~

~~(3)]~~ two representatives from the department, one each from the community affairs division and the housing finance division, appointed by the director; and

(3) ~~(4)]~~ three members representing service providers to the homeless, one each appointed by the governor, the lieutenant governor, and the speaker of the house of representatives.

SECTION 69. Articles 4.51(2) and (13), Insurance Code, are amended to read as follows:

(2) "Allocation date" means the date on which the certified investors of a certified capital company are allocated premium tax credits ~~[certified capital]~~ by the comptroller under this subchapter.

(13) "State premium tax liability" means:

(A) any liability incurred by any person under Subchapter A of this chapter; or

(B) if the tax liability imposed under Subchapter A of this chapter on January 1, 2003 ~~[2001]~~, is eliminated or reduced, any tax liability imposed on an insurance company or other person that had premium tax liability under Subchapter A of this

chapter on that date.

SECTION 70. Article 4.52, Insurance Code, is amended to read as follows:

Art. 4.52. DUTIES OF COMPTROLLER; RULES; IMPLEMENTATION.

The comptroller shall administer this subchapter and shall ~~may~~ adopt rules and forms as necessary to implement this subchapter. The rules must provide that:

(1) the comptroller shall begin accepting applications for certification as a certified capital company not later than the 30th day after the date the rules are adopted; and

(2) the comptroller shall accept premium tax credit allocation claims on behalf of certified investors on a date not later than the 120th day after the date the rules are adopted.

SECTION 71. Article 4.65(a), Insurance Code, is amended to read as follows:

(a) A certified investor who makes an investment of certified capital shall in the year of investment earn a vested credit against state premium tax liability equal to 100 percent of the certified investor's investment of certified capital, subject to the limits imposed by this subchapter. Beginning with the tax report due March 1, 2009, for the 2008 tax year, a [A] certified investor may take up to 25 [10] percent of the vested premium tax credit in any taxable year of the certified investor. The credit may not be applied to estimated payments due in 2008.

SECTION 72. Article 4.66(a), Insurance Code, is amended to read as follows:

(a) A premium tax credit allocation claim must be prepared

1 and executed by a certified investor on a form provided by the
2 comptroller. The certified capital company must file the claim with
3 the comptroller on the date on which the comptroller accepts
4 premium tax credit allocation claims on behalf of certified
5 investors under rules adopted under Article 4.52(2) of this code
6 ~~[not later than February 15, 2002]~~. The premium tax credit
7 allocation claim form must include an affidavit of the certified
8 investor under which the certified investor becomes legally bound
9 and irrevocably committed to make an investment of certified
10 capital in a certified capital company in the amount allocated even
11 if the amount allocated is less than the amount of the claim,
12 subject only to the receipt of an allocation under Article 4.68 of
13 this code.

14 SECTION 73. Section 4.67(b), Insurance Code, is amended to
15 read as follows:

16 (b) The total amount of certified capital for which premium
17 tax credits may be allowed for all certified investors under this
18 subchapter may not exceed the amount that would entitle all
19 certified investors in certified capital companies to take total
20 credits of \$50 ~~[\$20]~~ million in a year.

21 SECTION 74. Article 4.68(c), Insurance Code, is amended to
22 read as follows:

23 (c) Not later than the 15th day after the date on which the
24 comptroller accepts premium tax credit allocation claims on behalf
25 of certified investors under rules adopted under Article 4.52(2) of
26 this code ~~[March 1, 2002]~~, the comptroller shall notify each
27 certified capital company of the amount of tax credits allocated to

1 each certified investor. Each certified capital company shall
2 notify each certified investor of their premium tax credit
3 allocation.

4 SECTION 75. Article 4.73(a), Insurance Code, is amended to
5 read as follows:

6 (a) The comptroller shall prepare a biennial report with
7 respect to results of the implementation of this subchapter. The
8 report must include:

9 (1) the number of certified capital companies holding
10 certified capital;

11 (2) the amount of certified capital invested in each
12 certified capital company;

13 (3) the amount of certified capital the certified
14 capital company has invested in qualified businesses as of January
15 1, 2006 [~~2004~~], and the cumulative total for each subsequent year;

16 (4) the total amount of tax credits granted under this
17 subchapter for each year that credits have been granted;

18 (5) the performance of each certified capital company
19 with respect to renewal and reporting requirements imposed under
20 this subchapter;

21 (6) with respect to the qualified businesses in which
22 certified capital companies have invested:

23 (A) the classification of the qualified
24 businesses according to the industrial sector and the size of the
25 business;

26 (B) the total number of jobs created by the
27 investment and the average wages paid for the jobs; and

(C) the total number of jobs retained as a result of the investment and the average wages paid for the jobs; and

(7) the certified capital companies that have been decertified or that have failed to renew the certification and the reason for any decertification.

SECTION 76. Section 101.251, Insurance Code, is amended by amending Subsections (b), (g), (i), and (j) and adding Subsection (k) to read as follows:

(b) Except as provided by Subsection (j), an ~~unauthorized~~ insurer shall pay to the comptroller, on a form prescribed by the comptroller, a premium receipts tax of 4.85 percent of gross premiums charged for insurance on a subject resident, located, or to be performed in this state.

(g) The ~~unauthorized~~ insurer shall pay the premium receipts tax required by this section before:

(1) March 1 following the calendar year in which the insurance was effectuated, continued, or renewed; or

(2) another date specified by the comptroller.

(i) The tax under this section, if not paid when due, is a liability ~~[On default]~~ of the ~~[an unauthorized]~~ insurer, the insurer agent, and ~~[in the payment of the tax,]~~ the insured ~~[shall pay the tax]~~.

(j) This section does not apply to premiums on:

(1) insurance procured by a licensed surplus lines agent from an eligible surplus lines insurer as defined by Article 1.14-2 on which premium tax is paid in accordance with Article 1.14-2; ~~[or]~~

1 (2) an independently procured contract of insurance on
2 which premium tax is paid in accordance with this chapter; or

3 (3) a contract of insurance written by an insurer that
4 holds a certificate of authority in this state and that is
5 authorized to write the contract.

6 (k) In this section, "insurer" has the meaning assigned by
7 Section 101.002 and includes an insurer that does not hold a
8 certificate of authority in this state, an eligible surplus lines
9 insurer, and an insurer that holds a certificate of authority in
10 this state.

11 SECTION 76A. Section 141.008, Local Government Code, is
12 amended by adding Subsection (a-1) to read as follows:

13 (a-1) The governing body shall make the payroll deduction
14 described by Subsection (a) if requested in writing by employees
15 who are fire protection personnel as defined by Section 419.021,
16 Government Code, if the municipality receives revenue from the
17 state, and if the municipality permits deductions for purposes
18 other than charity, health insurance, taxes, or other purposes for
19 which the municipality is required by law to permit a deduction.

20 SECTION 77. The heading to Chapter 302, Local Government
21 Code, is amended to read as follows:

22 CHAPTER 302. ENERGY SAVINGS PERFORMANCE CONTRACTS [~~OR WATER~~
23 ~~CONSERVATION MEASURES~~] FOR LOCAL GOVERNMENTS

24 SECTION 78. Section 302.001, Local Government Code, is
25 amended to read as follows:

26 Sec. 302.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

27 (1) "Energy savings performance contract" means a

1 contract for energy or water conservation measures to reduce energy
2 or water consumption or operating costs of local government
3 facilities in which the estimated savings in utility costs
4 resulting from the measures is guaranteed to offset the cost of the
5 measures over a specified period. The term includes a contract for
6 the installation or implementation of:

7 (A) insulation of a building structure and
8 systems within the building;

9 (B) storm windows or doors, caulking or weather
10 stripping, multiglazed windows or doors, heat-absorbing or
11 heat-reflective glazed and coated window or door systems, or other
12 window or door system modifications that reduce energy consumption;

13 (C) automatic energy control systems, including
14 computer software and technical data licenses;

15 (D) heating, ventilating, or air-conditioning
16 system modifications or replacements that reduce energy or water
17 consumption;

18 (E) lighting fixtures that increase energy
19 efficiency;

20 (F) energy recovery systems;

21 (G) electric systems improvements;

22 (H) water-conserving fixtures, appliances, and
23 equipment or the substitution of non-water-using fixtures,
24 appliances, and equipment;

25 (I) water-conserving landscape irrigation
26 equipment;

27 (J) landscaping measures that reduce watering

demands and capture and hold applied water and rainfall, including:

(i) landscape contouring, including the use of berms, swales, and terraces; and

(ii) the use of soil amendments that increase the water-holding capacity of the soil, including compost;

(K) rainwater harvesting equipment and equipment to make use of water collected as part of a storm-water system installed for water quality control;

(L) equipment for recycling or reuse of water originating on the premises or from other sources, including treated municipal effluent;

(M) equipment needed to capture water from nonconventional, alternate sources, including air-conditioning condensate or graywater, for nonpotable uses;

(N) metering equipment needed to segregate water use in order to identify water conservation opportunities or verify water savings; or

(O) other energy or water conservation-related improvements or equipment, including improvements or equipment relating to renewable energy or nonconventional water sources or water reuse.

(2) "Local [~~,"local~~] government" means a county, municipality, or other political subdivision of this state. The term [~~local government~~] does not include a school district authorized to enter into an energy savings performance [~~a~~] contract [~~for energy or water conservation measures~~] under Section 44.901, Education Code.

SECTION 79. Section 302.002, Local Government Code, is amended to read as follows:

Sec. 302.002. ENERGY SAVINGS PERFORMANCE CONTRACTS [~~OR WATER CONSERVATION MEASURES~~]. (a) The governing body of a local government may enter into an energy savings performance [a] contract [~~for energy or water conservation measures to reduce energy or water consumption or operating costs of governmental facilities~~] in accordance with this chapter.

(b) Each [~~A contract authorized under this chapter includes a contract for the installation or implementation of:~~

[~~(1) insulation of the building structure and systems within the building;~~

[~~(2) storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption;~~

[~~(3) automatic energy control systems, including computer software and technical data licenses;~~

[~~(4) heating, ventilating, or air conditioning system modifications or replacements that reduce energy or water consumption;~~

[~~(5) lighting fixtures that increase energy efficiency;~~

[~~(6) energy recovery systems;~~

[~~(7) electric systems improvements;~~

[~~(8) water-conserving fixtures, appliances, and equipment or the substitution of non-water-using fixtures;~~

1 ~~appliances, and equipment,~~

2 ~~[(9) water-conserving landscape irrigation equipment,~~

3 ~~[(10) landscaping measures that reduce watering~~
4 ~~demands and capture and hold applied water and rainfall, including:~~

5 ~~[(A) landscape contouring, including the use of~~
6 ~~berms, swales, and terraces, and~~

7 ~~[(B) the use of soil amendments that increase the~~
8 ~~water-holding capacity of the soil, including compost,~~

9 ~~[(11) rainwater harvesting equipment and equipment to~~
10 ~~make use of water collected as part of a storm-water system~~
11 ~~installed for water quality control,~~

12 ~~[(12) equipment for recycling or reuse of water~~
13 ~~originating on the premises or from other sources, including~~
14 ~~treated municipal effluent,~~

15 ~~[(13) equipment needed to capture water from~~
16 ~~nonconventional, alternate sources, including air conditioning~~
17 ~~condensate or graywater, for nonpotable uses,~~

18 ~~[(14) metering equipment needed to segregate water use~~
19 ~~in order to identify water conservation opportunities or verify~~
20 ~~water savings, or~~

21 ~~[(15) other energy or water conservation-related~~
22 ~~improvements or equipment, including improvements or equipment~~
23 ~~related to renewable energy or nonconventional water sources or~~
24 ~~water reuse.~~

25 ~~[(c) All]~~ energy or water conservation measure ~~[measures]~~
26 must comply with current local, state, and federal construction,
27 plumbing, and environmental codes and regulations.

Notwithstanding Section 302.001(1) ~~[anything to the contrary in Subsection (b)]~~, an energy savings performance [a] contract may ~~[for energy or water conservation measures shall]~~ not include improvements or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of nonpotable usage over which public water supply system officials do not have sanitary control to be returned to the potable water supply.

SECTION 80. Section 302.003, Local Government Code, as amended by Chapter 1319, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

Sec. 302.003. PAYMENT AND PERFORMANCE BOND. Notwithstanding any other law ~~[to the contrary]~~, before entering into an energy savings performance [a] contract ~~[for energy conservation measures]~~, the governing body of the local government shall require the provider of the energy or water conservation measures to file with the governing body a payment and performance bond relating to the installation of the ~~[energy conservation]~~ measures in accordance with Chapter 2253, Government Code. The governing body may also require a separate bond to cover the value of the guaranteed savings on the contract.

SECTION 81. Section 302.004, Local Government Code, is amended to read as follows:

Sec. 302.004. METHOD OF FINANCING; TERMS OF CONTRACT. (a) An energy savings performance contract ~~[Energy or water conservation measures with respect to buildings or facilities]~~ may be financed:

(1) under a lease-purchase contract that has a term not to exceed 15 years from the final date of installation and that meets federal tax requirements for tax-free municipal leasing or long-term financing;

(2) with the proceeds of bonds; or

(3) under a contract with the provider of the energy or water conservation measures that has a term not to exceed 15 years from the final date of installation.

(b) An energy savings performance ~~[The]~~ contract shall contain provisions requiring ~~[pursuant to which]~~ the provider of the energy or water conservation measures to guarantee ~~[guarantees]~~ the amount of the savings to be realized by the local government under the contract. If the term of the ~~[a]~~ contract ~~[for energy or water conservation measures]~~ exceeds one year, the local government's contractual obligations in any one year during the term of the contract beginning after the final date of installation may not exceed the total energy, water, wastewater, and operating cost savings, including ~~[but not limited to]~~ electrical, gas, water, wastewater, or other utility cost savings and operating cost savings resulting from the measures as determined by the local government in this subsection, divided by the number of years in the contract term.

SECTION 82. Section 302.005, Local Government Code, as amended by Chapters 573 and 1319, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

Sec. 302.005. BIDDING PROCEDURES; AWARD OF CONTRACT. (a) An energy savings performance ~~[A]~~ contract under this chapter may

be let in accordance with the procedures established for procuring certain professional services by Section 2254.004, Government Code. Notice of the request for qualifications shall be published in the manner provided for competitive bidding.

(b) Before ~~[(d) Prior to]~~ entering into an energy savings performance ~~[a] contract [under this section]~~, the governing body must require that the cost savings projected by an offeror be reviewed by a licensed ~~[professional]~~ engineer who is not an officer or employee of an offeror for the contract under review or otherwise associated with the contract or the offeror. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract. Sections 1001.053 and 1001.407, Occupations Code, apply ~~[Section 19, The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), applies]~~ to work performed under the contract.

SECTION 83. Chapter 430, Local Government Code, is amended by adding Section 430.003 to read as follows:

Sec. 430.003. EXEMPTIONS OF STATE PROPERTY FROM INFRASTRUCTURE FEES. No county, municipality, or utility district may collect from a state agency or public institution of higher education any fee charged for the development or maintenance of programs of facilities for the control of excess water or storm water.

SECTION 84. Section 74.103, Property Code, is amended by adding Subsection (d) to read as follows:

(d) The comptroller may determine the liability of a holder

1 required to file a property report under Section 74.101 using the
2 best information available to the comptroller if the records of the
3 holder are unavailable or incomplete for any portion of the
4 required retention period.

5 SECTION 85. Section 74.501, Property Code, is amended by
6 adding Subsections (d) and (e) to read as follows:

7 (d) On receipt of a claim form and all necessary
8 documentation and as may be appropriate under the circumstances,
9 the comptroller may approve the claim of:

10 (1) the reported owner of the property;

11 (2) if the reported owner died testate:

12 (A) the appropriate legal beneficiaries of the
13 owner as provided by the last will and testament of the owner that
14 has been accepted into probate or filed as a muniment of title; or

15 (B) the executor of the owner's last will and
16 testament who holds current letters testamentary;

17 (3) if the reported owner died intestate:

18 (A) the legal heirs of the owner as provided by
19 Section 38, Texas Probate Code; or

20 (B) the court-appointed administrator of the
21 owner's estate;

22 (4) the legal heirs of the reported owner as
23 established by an affidavit of heirship order signed by a judge of
24 the county probate court or by a county judge;

25 (5) if the reported owner is a minor child or an adult
26 who has been adjudged incompetent by a court of law, the parent or
27 legal guardian of the child or adult;

1 (6) if the reported owner is a corporation:

2 (A) the president or chair of the board of
3 directors of the corporation, on behalf of the corporation; or

4 (B) any person who has legal authority to act on
5 behalf of the corporation;

6 (7) if the reported owner is a corporation that has
7 been dissolved or liquidated:

8 (A) the sole surviving shareholder of the
9 corporation, if there is only one surviving shareholder;

10 (B) the surviving shareholders of the
11 corporation in proportion to their ownership of the corporation, if
12 there is more than one surviving shareholder;

13 (C) the corporation's bankruptcy trustee; or

14 (D) the court-ordered receiver for the
15 corporation; or

16 (8) any other person that is entitled to receive the
17 unclaimed property under other law or comptroller policy.

18 (e) The comptroller may not pay to the following persons a
19 claim to which this section applies:

20 (1) a creditor, a judgment creditor, a lienholder, or
21 an assignee of the reported owner or of the owner's heirs; or

22 (2) a person holding a power of attorney from the
23 reported owner or the owner's heirs.

24 SECTION 86. Sections 111.104(b) and (c), Tax Code, are
25 amended to read as follows:

26 (b) A tax refund claim may be filed with the comptroller
27 only by the person who directly paid the tax to this state or by the

1 person's attorney, assignee, or other successor.

2 (c) A claim for a refund must:

3 (1) be written;

4 (2) state fully and in detail each reason or ground
5 ~~[the grounds]~~ on which the claim is founded; and

6 (3) be filed before the expiration of the applicable
7 limitation period as provided by this code or before the expiration
8 of six months after a jeopardy or deficiency determination becomes
9 final, whichever period expires later.

10 SECTION 87. Section 111.1042, Tax Code, is amended by
11 adding Subsection (d) to read as follows:

12 (d) If the right to a hearing is not exercised on a full or
13 partial denial of a claim for refund, the period during which the
14 comptroller informally reviewed the claim for refund does not toll
15 the limitation period for any subsequent claim for refund on the
16 same period and type of tax for which the claim for refund was fully
17 or partially denied.

18 SECTION 88. Section 111.105, Tax Code, is amended by
19 amending Subsection (a) and adding Subsection (e) to read as
20 follows:

21 (a) A person claiming a refund under Section 111.104 ~~[of~~
22 ~~this code]~~ is entitled to a hearing on the claim if the person
23 requests a hearing on or before the 30th day after the date ~~[in~~
24 ~~accordance with procedures prescribed by]~~ the comptroller issues a
25 letter denying the claim for refund. The person is entitled to 20
26 days' notice of the time and place of the hearing.

27 (e) During the administrative hearing process, a person

claiming a refund under Section 111.104 must submit documentation to enable the comptroller to verify the claim for refund. The comptroller may issue a notice of demand that all evidence to support the claim for refund must be produced before the expiration of a specified date in the notice. The specified date in the notice may not be earlier than 180 days after the date the refund is claimed. The comptroller may not consider evidence produced after the specified date in the notice in an administrative hearing. The limitation provided by this subsection does not apply to a judicial proceeding filed in accordance with Chapter 112.

SECTION 89. Section 111.107, Tax Code, is amended to read as follows:

Sec. 111.107. WHEN REFUND OR CREDIT IS PERMITTED. (a) Except as otherwise expressly provided, a person may request a refund or a credit or the comptroller may make a refund or issue a credit for the overpayment of a tax imposed by this title at any time before the expiration of the period during which the comptroller may assess a deficiency for the tax and not thereafter unless the refund or credit is requested:

(1) under Subchapter B of Chapter 112 and the refund is made or the credit is issued under a court order;

(2) under the provision of Section 111.104(c)(3) applicable to a refund claim filed after a jeopardy or deficiency determination becomes final; or

(3) under Chapter 153, except Section 153.1195(e), 153.121(d), 153.2225(e), or 153.224(d).

(b) A person may not refile a refund claim for the same

transaction or item, tax type, period, and ground or reason that was previously denied by the comptroller.

SECTION 90. Sections 111.206(b), (c), and (d), Tax Code, are amended to read as follows:

(b) A final determination that affects the amount of liability of a tax imposed by this title shall be reported to the comptroller before the expiration of 120 ~~[60]~~ days after the day on which the determination becomes final. The report must include a detailed statement of the reasons for the difference in tax liability as required by the comptroller.

(c) Notwithstanding the expiration of a period of limitation provided in this title, the comptroller may assess and collect or bring suit for the collection of any tax deficiency, including penalties and interest, resulting from a final determination ~~[or from investigation]~~ at any time before the expiration of one year after:

(1) the later of the day the report is required to be filed as provided by Subsection (b) or the day ~~[of this section is received, if]~~ the report is received ~~[filed within the 60-day period]~~; or

(2) ~~[if the report is not made or is made after the 60-day period, the day the report is received or]~~ the day the final determination is discovered, if a report is not filed ~~[whichever period is the shorter]~~.

(d) If a final determination ~~[or investigation]~~ results in the taxpayer having overpaid the amount of tax due the state, the taxpayer may file a claim for refund with the comptroller ~~[shall~~

1 ~~refund or issue a credit]~~ for the amount of the overpayment before
 2 the first anniversary of the date the final determination becomes
 3 final. If the comptroller assesses tax by issuing a deficiency
 4 determination within the ~~[at any time during the one-year]~~ period
 5 provided by ~~[during which assessments may be made under]~~ Subsection
 6 (c), the taxpayer may file a claim for refund for an amount of tax
 7 that has been found due in a deficiency determination before the
 8 180th day after the deficiency determination becomes final, but the
 9 claim is limited to the items and the tax payment period for which
 10 the determination was issued ~~[of this section]~~.

11 SECTION 91. Sections 111.207(a) and (b), Tax Code, are
 12 amended to read as follows:

13 (a) In determining the expiration date for a period when a
 14 tax imposed by this title may be assessed, ~~[or]~~ collected, or
 15 refunded, the following periods are not considered:

16 (1) the period following the date of a tax payment made
 17 under protest, but only if a lawsuit is timely filed in accordance
 18 with Chapter 112;

19 (2) the period during which a judicial proceeding is
 20 pending in a court of competent jurisdiction to determine the
 21 amount of the tax due; and

22 (3) the period during which an administrative
 23 redetermination or refund hearing ~~[proceeding]~~ is pending before
 24 the comptroller ~~[for a redetermination of the tax liability]~~.

25 (b) The suspension of a period of limitation under
 26 Subsection (a) is limited ~~[of this section applies only]~~ to the
 27 issues that were contested ~~[amount of taxes in issue]~~ under

Subdivision (1), (2), or (3) of that subsection.

SECTION 92. Section 112.058(a), Tax Code, is amended to read as follows:

(a) Payments [~~Except as provided in Subsections (b) and (c) of this section, payments~~] made under protest are to be handled as follows:

(1) An officer who receives payments made under protest as required by Section 112.051 [~~of this code~~] shall each day send to the comptroller the payments, a list of the persons making the payments, and a written statement that the payments were made under protest.

(2) The comptroller shall, immediately on receipt, credit the payments to each fund to which the tax or fee paid under protest is allocated by law.

(3) The comptroller shall maintain detailed records of payments made under protest.

(4) A payment under protest bears pro rata interest. The pro rata interest is the amount of interest earned by the protested funds [~~that would be due if the amount had been placed in the suspense account of the comptroller~~].

SECTION 93. Section 142.002, Tax Code, is amended by amending Subdivisions (1), (2), (3), (4), and (6) and adding Subdivisions (3-a), (3-b), and (3-c) to read as follows:

(1) "Agreement" means the Streamlined Sales and Use Tax Agreement as amended and adopted on November 12, 2002 [~~January 27, 2001~~].

(2) "Certified automated system" means software

1 certified under [~~jointly by the states that are signatories to~~] the
 2 agreement to calculate [~~compute~~] the tax imposed by each
 3 jurisdiction on a transaction, determine the amount of tax to remit
 4 to the appropriate state, and maintain a record of the transaction.

5 (3) "Certified service provider" means an agent
 6 certified under [~~jointly by the states that are signatories to~~] the
 7 agreement to perform all of the seller's sales tax functions, other
 8 than the seller's obligation to remit tax on the seller's own
 9 purchases.

10 (3-a) "Model 1 seller" means a seller that has
 11 selected a certified service provider as the seller's agent to
 12 perform all of the seller's sales and use tax functions, other than
 13 the seller's obligation to remit tax on the seller's own purchases.

14 (3-b) "Model 2 seller" means a seller that has
 15 selected a certified automated system to perform part of the
 16 seller's sales and use tax functions, but retains responsibility
 17 for remitting the tax.

18 (3-c) "Model 3 seller" means a seller that has sales in
 19 at least five member states, has total annual sales revenue of at
 20 least \$500 million, has a proprietary system that calculates the
 21 amount of tax due each jurisdiction, and has entered into a
 22 performance agreement with the member states that establishes a tax
 23 performance standard for the seller. The term includes an
 24 affiliated group of sellers using the same proprietary system.

25 (4) "Sales tax" means a sales tax administered or
 26 computed under Chapter 151 [~~this subtitle or Subtitle C, Title 3, or~~
 27 ~~in a similar manner~~].

1 (6) "Use tax" means a use tax administered or computed
2 under Chapter 151 [~~this subtitle or Subtitle C, Title 3, or in a~~
3 ~~similar manner~~].

4 SECTION 94. Section 142.005, Tax Code, is amended by adding
5 Subsection (c) to read as follows:

6 (c) The comptroller may enter into the agreement on behalf
7 of this state if the governor, lieutenant governor, speaker of the
8 house of representatives, and comptroller unanimously agree that it
9 would be in this state's best interest to be a signatory to the
10 agreement.

11 SECTION 95. Chapter 142, Tax Code, is amended by adding
12 Section 142.0055 to read as follows:

13 Sec. 142.0055. RULES. The comptroller may adopt rules
14 relating to the administration and collection of the sales and use
15 tax as necessary to comply with the agreement, including rules
16 establishing the requirements for a seller to be a Model 1 seller,
17 Model 2 seller, or Model 3 seller.

18 SECTION 96. Chapter 142, Tax Code, is amended by adding
19 Section 142.011 to read as follows:

20 Sec. 142.011. SETTLEMENT OF TAX, PENALTY, AND INTEREST. On
21 or after the later of the date on which the agreement takes effect
22 as provided by the terms of the agreement or this state becomes a
23 signatory to the agreement, the comptroller may settle a claim for
24 tax, penalty, or interest on tax imposed by Chapter 151 if necessary
25 for the comptroller to comply with the terms of the agreement.

26 SECTION 97. Section 151.011(a), Tax Code, is amended to
27 read as follows:

(a) Except as provided by Subsection (c) of this section, "use" means the exercise of a right or power incidental to the ownership of tangible personal property over tangible personal property, including tangible personal property other than printed material that has been processed, fabricated, or manufactured into other property or attached to or incorporated into other property transported into this state, and, except as provided by Section 151.056(b) of this code, includes the incorporation of tangible personal property into real estate or into improvements of real estate whether or not the real estate is subsequently sold.

SECTION 98. Subchapter A, Chapter 151, Tax Code, is amended by adding Section 151.012 to read as follows:

Sec. 151.012. EFFECTIVE DATE OF TAX RATE CHANGES. (a) A change in the rate of the tax imposed under Sections 151.051 and 151.101 must take effect on the first day of a calendar quarter.

(b) If the performance of a taxable service begins before the effective date of a change in the tax rate and the performance will not be completed until after that effective date, the change in the tax rate applies to the first billing period for the service performed on or after that effective date.

SECTION 99. Section 151.025, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) If any nontaxable charges are combined with and not separately stated from taxable telecommunications service charges on the customer bill or invoice of a provider of telecommunications services, the combined charge is subject to tax unless the provider can identify the portion of the charges that are nontaxable through

1 the provider's books and records kept in the regular course of
 2 business. If the nontaxable charges cannot reasonably be
 3 identified, the charges from the sale of both nontaxable services
 4 and taxable telecommunications services are attributable to
 5 taxable telecommunications services. The provider of
 6 telecommunications services has the burden of proving nontaxable
 7 charges.

8 SECTION 100. Section 151.103, Tax Code, is amended by
 9 adding Subsection (d) to read as follows:

10 (d) A retailer who holds a sales tax permit issued by the
 11 comptroller under this chapter shall collect any applicable local
 12 use tax that is due from a purchaser even if the retailer is not
 13 engaged in business in the local jurisdiction into which the
 14 taxable item is shipped or delivered.

15 SECTION 101. Section 151.152(b), Tax Code, is amended to
 16 read as follows:

17 (b) A resale certificate must:

18 (1) be signed by the purchaser or contain an
 19 electronic form of the purchaser's signature authorized by the
 20 comptroller and contain the purchaser's name and address;

21 (2) state the purchaser's tax permit number or that the
 22 purchaser's application for a tax permit is pending before the
 23 comptroller; and

24 (3) contain a description of the tangible personal
 25 property sold, leased, or rented by the purchaser in the regular
 26 course of business or transferred as an integral part of a taxable
 27 service performed in the regular course of business.

SECTION 102. Section 151.202, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) A person desiring to be a seller in this state must agree to collect any applicable local use tax that may be imposed by a local jurisdiction even if the seller is not engaged in business in the local jurisdiction into which the taxable item is shipped or delivered.

SECTION 103. Section 151.314, Tax Code, is amended by amending Subsections (c), (e), (f), and (g) and adding Subsections (c-1), (c-2), and (c-3) to read as follows:

(c) "Food products" shall not include:

(1) drugs, medicines, tonics, vitamins, dietary supplements, and medicinal preparations in any form;

(2) carbonated and noncarbonated packaged soft drinks, which are nonalcoholic beverages that contain natural or artificial sweeteners [~~and diluted juices and ice and candy~~];

(3) ice; or

(4) candy [~~foods and drinks (which include meals, milk and milk products, fruit and fruit products, sandwiches, salads, processed meats and seafoods, vegetable juices, ice cream in cones or small cups) served, prepared, or sold ready for immediate consumption in or by restaurants, lunch counters, cafeterias, vending machines, hotels, or like places of business or sold ready for immediate consumption from pushcarts, motor vehicles, or any other form of vehicle~~].

(c-1) For purposes of this section, diluted juice that is more than 50 percent vegetable or fruit juice by volume is not

1 considered to be a soft drink.

2 (c-2) The exemption provided by Subsection (a) does not
3 include the following prepared food:

4 (1) food, food products, and drinks, including meals,
5 milk and milk products, fruit and fruit products, sandwiches,
6 salads, processed meats and seafoods, vegetable juice, and ice
7 cream in cones or small cups, served, prepared, or sold ready for
8 immediate consumption in or by restaurants, lunch counters,
9 cafeterias, vending machines, hotels, or like places of business or
10 sold ready for immediate consumption from pushcarts, motor
11 vehicles, or any other form of vehicle;

12 (2) food sold in a heated state or heated by the
13 seller; or

14 (3) two or more food ingredients mixed or combined by
15 the seller for sale as a single item, including items that are sold
16 in an unheated state by weight or volume as a single item, but not
17 including food that is only cut, repackaged, or pasteurized by the
18 seller.

19 (c-3) The exemption provided by Subsection (a) includes:

20 (1) bakery items sold without plates or other eating
21 utensils, including bread, rolls, buns, biscuits, bagels,
22 croissants, pastries, doughnuts, Danish, cakes, tortes, pies,
23 tarts, muffins, bars, cookies, and tortillas; and

24 (2) eggs, fish, meat, and poultry, and foods
25 containing these raw animal foods, that require cooking by the
26 consumer as recommended by the Food and Drug Administration in
27 Chapter 3, Section 401.11 of its Food Code to prevent food-borne

1 illness and any other food that requires cooking by the consumer
2 before the food is edible.

3 (e) Food products, candy, and soft drinks [~~carbonated~~
4 ~~beverages, and diluted juices~~] are exempted from the taxes imposed
5 by this chapter if sold at an exempt sale qualifying under this
6 subsection or if stored or used by the purchaser of the item at the
7 exempt sale. A sale is exempted under this subsection if:

8 (1) the sale is made by a person under 19 years old who
9 is a member of a nonprofit organization devoted to the exclusive
10 purpose of education or religious or physical training or by a group
11 associated with a public or private elementary or secondary school;

12 (2) the sale is made as a part of a fund-raising drive
13 sponsored by the organization or group; and

14 (3) all net proceeds from the sale go to the
15 organization or group for its exclusive use.

16 (f) The exemption provided by this section does
17 [Subsections (a), (b), and (c) of this section do] not apply to the
18 sale of food products through the use or operation of a vending
19 machine for which [~~edible products for human consumption~~] the
20 receipts or sales prices are determined by [~~price for which are~~
21 ~~taxed subject to~~] Section 151.007(d) [~~of this code~~].

22 (g) The exemption provided by Subsection (d)(3) does not
23 apply to food products, meals, soft drinks, and candy [~~for human~~
24 ~~consumption~~] sold to a person confined in a correctional facility
25 operated under the authority or jurisdiction of or under contract
26 with this state or a political subdivision of the state.

27 SECTION 104. Section 151.317(a), Tax Code, is amended to

read as follows:

(a) Subject to Subsection (d), gas and electricity are exempted from the taxes imposed by this chapter when sold for:

(1) residential use;

(2) use in powering equipment exempt under Section 151.318 or 151.3185 by a person processing tangible personal property for sale as tangible personal property, other than preparation or storage of prepared food described by Section 151.314(c-2) [~~food for immediate consumption~~];

(3) use in lighting, cooling, and heating in the manufacturing area during the actual manufacturing or processing of tangible personal property for sale as tangible personal property, other than preparation or storage of prepared food described by Section 151.314(c-2) [~~food for immediate consumption~~];

(4) use directly in exploring for, producing, or transporting, a material extracted from the earth;

(5) use in agriculture, including dairy or poultry operations and pumping for farm or ranch irrigation;

(6) use directly in electrical processes, such as electroplating, electrolysis, and cathodic protection;

(7) use directly in the off-wing processing, overhaul, or repair of a jet turbine engine or its parts for a certificated or licensed carrier of persons or property;

(8) use directly in providing, under contracts with or on behalf of the United States government or foreign governments, defense or national security-related electronics, classified intelligence data processing and handling systems, or

1 defense-related platform modifications or upgrades;

2 (9) a direct or indirect use, consumption, or loss of
3 electricity by an electric utility engaged in the purchase of
4 electricity for resale; or

5 (10) use in timber operations, including pumping for
6 irrigation of timberland.

7 SECTION 105. Section 151.317(c), Tax Code, as amended by
8 Chapters 631 and 1467, Acts of the 76th Legislature, Regular
9 Session, 1999, is reenacted to read as follows:

10 (c) In this section, "residential use" means use:

11 (1) in a family dwelling or in a multifamily apartment
12 or housing complex or building or in a part of a building occupied
13 as a home or residence when the use is by the owner of the dwelling,
14 apartment, complex, or building or part of the building occupied;
15 or

16 (2) in a dwelling, apartment, house, or building or
17 part of a building occupied as a home or residence when the use is by
18 a tenant who occupies the dwelling, apartment, house, or building
19 or part of a building under a contract for an express initial term
20 for longer than 29 consecutive days.

21 SECTION 106. Section 151.318, Tax Code, is amended by
22 amending Subsections (b) and (s) and adding Subsection (q-1) to
23 read as follows:

24 (b) The exemption includes:

25 (1) chemicals, catalysts, and other materials that are
26 used during a manufacturing, processing, or fabrication operation
27 to produce or induce a chemical or physical change, to remove

1 impurities, or to make the product more marketable; ~~and~~

2 (2) semiconductor fabrication cleanrooms and
3 equipment; and

4 (3) pharmaceutical biotechnology cleanrooms and
5 equipment that are installed as part of the construction of a new
6 facility with a value of at least \$150 million and on which
7 construction began after July 1, 2003, and before August 31, 2004.

8 (q-1) For purposes of Subsection (b), "pharmaceutical
9 biotechnology cleanrooms and equipment" means all tangible
10 personal property, without regard to whether the property is
11 affixed to or incorporated into realty, used in connection with the
12 manufacturing, processing, or fabrication in a cleanroom
13 environment of a pharmaceutical biotechnology product, without
14 regard to whether the property is actually contained in the
15 cleanroom environment. The term includes integrated systems,
16 fixtures, and piping, all property necessary or adapted to reduce
17 contamination or to control airflow, temperature, humidity,
18 chemical purity, or other environmental conditions or
19 manufacturing tolerances, and production equipment and machinery.
20 The term does not include the building or a permanent, nonremovable
21 component of the building that houses the cleanroom environment.
22 The term includes moveable cleanroom partitions and cleanroom
23 lighting. "Pharmaceutical biotechnology cleanrooms and equipment"
24 are not "intraplant transportation equipment" as that term is used
25 in Subsection (c)(1).

26 (s) The following do not apply to the semiconductor
27 fabrication cleanrooms and equipment in Subsection (q) or the

1 pharmaceutical biotechnology cleanrooms and equipment in

2 Subsection (q-1):

3 (1) limitations in Subsection (a)(2) that refer to
4 tangible personal property directly causing chemical and physical
5 changes to the product being manufactured, processed, or fabricated
6 for ultimate sale;

7 (2) Subsection (c)(1); and

8 (3) Subsection (c)(4).

9 SECTION 107. Section 151.3181, Tax Code, is amended by
10 adding Subsection (h) to read as follows:

11 (h) The use of "pharmaceutical biotechnology cleanrooms and
12 equipment," as that term is defined by Section 151.318(q-1), to
13 manufacture, process, or fabricate a pharmaceutical biotechnology
14 product that is not sold is not a divergent use if the use occurs
15 during the certification process by the United States Food and Drug
16 Administration.

17 SECTION 108. Section 153.119(d), Tax Code, is amended to
18 read as follows:

19 (d) If the quantity of gasoline used in Texas by auxiliary
20 power units or power take-off equipment on any motor vehicle can be
21 accurately measured while the motor vehicle is stationary by any
22 metering or other measuring device or method designed to measure
23 the fuel separately from fuel used to propel the motor vehicle, the
24 comptroller may approve and adopt the use of any device as a basis
25 for determining the quantity of gasoline consumed in those
26 operations for tax credit or tax refund. The climate-control air
27 conditioning or heating system of a motor vehicle that has a primary

1 purpose of providing for the convenience or comfort of the operator
2 or passengers is not a power take-off system, and a refund may not
3 be allowed for the tax paid on any portion of the gasoline that is
4 used for that purpose.

5 SECTION 109. Section 153.222(d), Tax Code, is amended to
6 read as follows:

7 (d) If the quantity of diesel fuel used in Texas by
8 auxiliary power units or power take-off equipment on any motor
9 vehicle can be accurately measured while the motor vehicle is
10 stationary by any metering or other measuring device or method
11 designed to measure the fuel separately from fuel used to propel the
12 motor vehicle, the comptroller may approve and adopt the use of any
13 device as a basis for determining the quantity of diesel fuel
14 consumed in those operations for tax credit or tax refund. If no
15 separate metering device or other approved measuring method is
16 provided, the following credit or refund procedures are authorized.
17 A permitted supplier, a dyed diesel fuel bonded user, or an
18 agricultural bonded user who operates diesel-powered motor
19 vehicles equipped with a power take-off or a diesel-powered
20 auxiliary power unit mounted on the motor vehicle and using the fuel
21 supply tank of the motor vehicle may be allowed a deduction from the
22 taxable gallons used in this state in each motor vehicle so
23 equipped. The comptroller shall determine the percentage of the
24 deduction. A user who is required to pay the tax on diesel fuel used
25 in motor vehicles so equipped may file a claim for a refund not to
26 exceed the percentage allowed by the comptroller of the total
27 taxable fuel used in this state in each motor vehicle so equipped.

1 The climate-control air conditioning or heating system of a motor
2 vehicle that has a primary purpose of providing for the convenience
3 or comfort of the operator or passengers is not a power take-off
4 system, and a refund may not be allowed for the tax paid on any
5 portion of the diesel fuel that is used for that purpose.

6 SECTION 110. Section 201.057(i), Tax Code, is amended to
7 read as follows:

8 (i) If, before the commission certifies that a well produces
9 high-cost gas or before the comptroller approves an application for
10 an exemption or tax reduction under this section, the tax imposed by
11 this chapter is paid on high-cost gas that otherwise qualifies for
12 the exemption or tax reduction provided by this section, the
13 producer or producers of the gas are entitled to a credit against
14 other taxes imposed by this chapter in an amount equal to the amount
15 of the tax paid on the gas that otherwise qualified for the
16 exemption or tax reduction on or after the first day of the next
17 month after the month in which the application for certification
18 under this section was filed with the commission. If the
19 application for certification is submitted to the commission after
20 January 1, 2004, the total allowable credit for taxes paid for
21 reporting periods before the date the application is filed may not
22 exceed the total tax paid on the gas that otherwise qualified for
23 the exemption or tax reduction and that was produced during the 24
24 consecutive calendar months immediately preceding the month in
25 which the application for certification under this section was
26 filed with the commission. The credit is allocated to each producer
27 according to the producer's proportionate share in the gas. To

1 receive a credit, one or more of the producers must apply to the
2 comptroller for the credit not later than the first anniversary
3 after the date the comptroller approves the application for an
4 exemption or tax reduction under this section. If a producer
5 demonstrates that the producer does not have sufficient tax
6 liability under this chapter to claim the credit within five years
7 from the date the application for the credit is made, the producer
8 is entitled to a refund in the amount of any credit the comptroller
9 determines may not be claimed within that five years. Nothing in
10 this subsection shall relieve the obligation imposed by Subsection
11 (b) to pay tax when due on high-cost gas produced from co-production
12 projects on or before July 31, 1995.

13 SECTION 111. Section 201.101, Tax Code, is amended to read
14 as follows:

15 Sec. 201.101. MARKET VALUE. (a) The market value of gas is
16 its value at the mouth of the well from which it is produced. The
17 value of gas at the mouth of the well is determined by ascertaining
18 the producer's actual marketing costs and subtracting those costs
19 from the producer's gross cash receipts from the sale of the gas.

20 (b) Marketing costs are the costs incurred by the producer
21 to get the gas from the mouth of the well to the market, including:

- 22 (1) costs for compressing the gas sold;
23 (2) costs for dehydrating the gas sold;
24 (3) costs for sweetening the gas sold; and
25 (4) costs for delivering the gas to the purchaser.

26 (c) Marketing costs do not include:

- 27 (1) costs incurred in producing the gas;

1 (2) costs incurred in normal lease separation of the
2 oil or condensate; or

3 (3) insurance premiums on the marketing facility.

4 (d) Marketing costs are determined by adding:

5 (1) a reasonable charge for depreciation of the
6 marketing facility being used, provided that, if the facility is
7 rented, the actual rental fee is added;

8 (2) a return on the producer-owned investment equal to
9 six percent per year on the average depreciable balance;

10 (3) costs of direct or allocated labor associated with
11 the marketing facility;

12 (4) costs of materials, supplies, maintenance,
13 repairs, and fuel associated with the marketing facility; and

14 (5) ad valorem taxes paid on the marketing facility.

15 (e) If the facility is used for a purpose other than
16 marketing the gas being sold, the cost shall be allocated
17 accordingly.

18 (f) If the facility is handling gas for outside parties, the
19 average cost for handling all of the gas shall be applied against
20 the facility owner's gas.

21 (g) The actual cost being charged a producer by an outside
22 party for marketing functions may be used for tax purposes if no
23 other benefit or value accrues to the producer.

24 (h) A producer receiving a cost reimbursement from the gas
25 purchaser shall include the reimbursement in the gross cash
26 receipts and is entitled to deduct the actual marketing costs
27 incurred.

SECTION 112. Section 201.102, Tax Code, is amended to read as follows:

Sec. 201.102. CASH SALES. If gas is sold for cash only, the tax shall be computed on the producer's gross cash receipts. Payments from a purchaser of gas to a producer for the purpose of reimbursing the producer for taxes due under this chapter are ~~[not]~~ part of the gross cash receipts unless the reimbursement amount for taxes due under this chapter is separately stated in the sales contract.

SECTION 113. Section 313.021(2), Tax Code, is amended to read as follows:

(2) "Qualified property" means:

(A) land:

(i) that is located in an area designated as a reinvestment zone under Chapter 311 or 312 or as an enterprise zone under Chapter 2303, Government Code;

(ii) on which a person proposes to construct a new building or erect or affix a new improvement that does not exist before the date the owner applies for a limitation on appraised value under this subchapter;

(iii) that is not subject to a tax abatement agreement entered into by a school district under Chapter 312; and

(iv) on which, in connection with the new building or new improvement described by Subparagraph (ii), the owner of the land proposes to:

(a) make a qualified investment in an amount equal to at least the minimum amount required by Section

1 313.023; and

2 (b) create at least 25 new jobs;

3 (B) the new building or other new improvement
4 described by Paragraph (A)(ii); and

5 (C) tangible personal property that:

6 (i) is not subject to a tax abatement
7 agreement entered into by a school district under Chapter 312; and

8 (ii) except for new equipment described in
9 Section 151.318(q) or (q-1), is first placed in service in the new
10 building or in or on the new improvement described by Paragraph
11 (A)(ii), or on the land on which that new building or new
12 improvement is located, if the personal property is ancillary and
13 necessary to the business conducted in that new building or in or on
14 that new improvement.

15 SECTION 114. Section 321.003, Tax Code, is amended to read
16 as follows:

17 Sec. 321.003. OTHER PORTIONS OF TAX APPLICABLE. Subtitles
18 A and B, Title 2, and Chapters 142 and ~~[Chapter]~~ 151 apply to the
19 taxes and to the administration and enforcement of the taxes
20 imposed by this chapter in the same manner that those laws apply to
21 state taxes, unless modified by this chapter.

22 SECTION 115. Section 321.203, Tax Code, is amended by
23 amending Subsections (b), (c), (d), (e), and (g) and adding
24 Subsections (g-1), (g-2), (g-3), and (l) to read as follows:

25 (b) If a retailer has only one place of business in this
26 state, all of the retailer's retail sales of tangible personal
27 property are consummated at that place of business except as

1 provided by Subsection (e).

2 (c) If a retailer has more than one place of business in this
3 state, a sale of tangible personal property [~~a taxable item~~] by the
4 retailer is consummated at the retailer's place of business:

5 (1) from which the retailer ships or delivers the
6 property [~~item~~], if the retailer ships or delivers the property
7 [~~item~~] to a point designated by the purchaser or lessee; or

8 (2) where the purchaser or lessee takes possession of
9 and removes the property [~~item~~], if the purchaser or lessee takes
10 possession of and removes the property [~~item~~] from a place of
11 business of the retailer.

12 (d) If neither the possession of tangible personal property
13 [~~a taxable item~~] is taken at nor shipment or delivery of the
14 property [~~item~~] is made from the retailer's place of business in
15 this state, the sale is consummated at:

16 (1) the retailer's place of business in this state
17 where the order is received; or

18 (2) if the order is not received at a place of business
19 of the retailer, the place of business from which the retailer's
20 salesman who took the order operates.

21 (e) A sale of tangible personal property is consummated at
22 the location in this state to which the property [~~a taxable item~~] is
23 shipped or delivered or at which possession is taken by the customer
24 if transfer of possession of the property [~~a taxable item~~] occurs
25 at, or shipment or delivery of the property [~~item~~] originates from,
26 a location in this state other than a place of business of the
27 retailer and if:

1 (1) the retailer is an itinerant vendor who has no
2 place of business;

3 (2) the retailer's place of business where the
4 purchase order is initially received or from which the retailer's
5 salesman who took the order operates is outside this state; or

6 (3) the purchaser places the order directly with the
7 retailer's supplier and the property [~~item~~] is shipped or delivered
8 directly to the purchaser by the supplier.

9 (g) ~~The [sale of telecommunications services is consummated~~
10 ~~at the location of the telephone or other telecommunications device~~
11 ~~from which the call or other transmission originates, unless the~~
12 ~~point of origin cannot be determined, in which case the sale is at~~
13 ~~the address to which the call is billed. However, the]~~ sale of
14 mobile telecommunications services is consummated in accordance
15 with [~~the provisions of~~] Section 151.061.

16 (g-1) The sale of telecommunications services sold based on
17 a price that is measured by individual calls is consummated at the
18 location where the call originates and terminates or the location
19 where the call either originates or terminates and at which the
20 service address is also located.

21 (g-2) Except as provided by Subsection (g-3), the sale of
22 telecommunications services sold on a basis other than on a
23 call-by-call basis is consummated at the location of the customer's
24 place of primary use.

25 (g-3) A sale of post-paid calling services is consummated at
26 the location of the origination point of the telecommunications
27 signal as first identified by the seller's telecommunications

1 system or by information received by the seller from the seller's
2 service provider if the system used to transport the signal is not
3 that of the seller.

4 (1) Except as otherwise provided by this section, the sale
5 of a taxable service, other than a service described by Section
6 151.330(f), is consummated at the location at which the service is
7 performed or otherwise delivered.

8 SECTION 116. Section 322.107, Tax Code, is amended to read
9 as follows:

10 Sec. 322.107. EXEMPTION: SALES TAX ON ITEMS LEAVING ENTITY.
11 There are exempted from the sales tax of a taxing entity the
12 receipts of the sale of a taxable item that, under a sales contract,
13 is shipped to a point outside the entity by means of:

- 14 (1) facilities operated by the retailer;
15 (2) delivery by the retailer to a carrier for shipment
16 to a consignee at that point; or
17 (3) delivery by the retailer to a ~~[customs broker or a]~~
18 forwarding agent for shipment outside the entity.

19 SECTION 117. Section 323.003, Tax Code, is amended to read
20 as follows:

21 Sec. 323.003. OTHER PORTIONS OF TAX APPLICABLE. Subtitles
22 A and B, Title 2, and Chapters 142 and ~~[Chapter]~~ 151 apply to the
23 taxes and to the administration and enforcement of the taxes
24 imposed by this chapter in the same manner that those laws apply to
25 state taxes unless modified by this chapter.

26 SECTION 118. Section 323.203, Tax Code, is amended by
27 amending Subsections (b), (c), (d), (e), and (g) and adding

Subsections (g-1), (g-2), (g-3), and (l) to read as follows:

(b) If a retailer has only one place of business in this state, all of the retailer's retail sales of tangible personal property are consummated at that place of business except as provided by Subsection (e).

(c) If a retailer has more than one place of business in this state, a sale of tangible personal property [~~a taxable item~~] by the retailer is consummated at the retailer's place of business:

(1) from which the retailer ships or delivers the property [~~item~~], if the retailer ships or delivers the property [~~item~~] to a point designated by the purchaser or lessee; or

(2) where the purchaser or lessee takes possession of and removes the property [~~item~~], if the purchaser or lessee takes possession of and removes the property [~~item~~] from a place of business of the retailer.

(d) If neither the possession of tangible personal property [~~a taxable item~~] is taken at nor shipment or delivery of the property [~~item~~] is made from the retailer's place of business in this state, the sale is consummated at:

(1) the retailer's place of business in this state where the order is received; or

(2) if the order is not received at a place of business of the retailer, the place of business from which the retailer's salesman who took the order operates.

(e) A sale of tangible personal property is consummated at the location in this state to which the property [~~a taxable item~~] is shipped or delivered or at which possession is taken by the customer

1 if transfer of possession of the property [~~a taxable item~~] occurs
2 at, or shipment or delivery of the property [~~taxable item~~]
3 originates from, a location in this state other than a place of
4 business of the retailer and if:

5 (1) the retailer is an itinerant vendor who has no
6 place of business;

7 (2) the retailer's place of business where the
8 purchase order is initially received or from which the retailer's
9 salesman who took the order operates is outside this state; or

10 (3) the purchaser places the order directly with the
11 retailer's supplier and the property [~~taxable item~~] is shipped or
12 delivered directly to the purchaser by the supplier.

13 (g) ~~The sale of [telecommunications services is consummated~~
14 ~~at the location of the telephone or other telecommunications device~~
15 ~~from which the call or other transmission originates, unless the~~
16 ~~point of origin cannot be determined, in which case the sale is at~~
17 ~~the address to which the call is billed. However, the sale of]~~
18 mobile telecommunications services is consummated in accordance
19 with [~~the provisions of~~] Section 151.061.

20 (g-1) The sale of telecommunications services sold based on
21 a price that is measured by individual calls is consummated at the
22 location where the call originates and terminates or the location
23 where the call either originates or terminates and at which the
24 service address is also located.

25 (g-2) Except as provided by Subsection (g-3), the sale of
26 telecommunications services sold on a basis other than on a
27 call-by-call basis is consummated at the location of the customer's

1 place of primary use.

2 (g-3) A sale of post-paid calling services is consummated at
3 the location of the origination point of the telecommunications
4 signal as first identified by the seller's telecommunications
5 system or by information received by the seller from the seller's
6 service provider if the system used to transport the signal is not
7 that of the seller.

8 (1) Except as otherwise provided by this section, the sale
9 of a taxable service, other than a service described by Section
10 151.330(f), is consummated at the location at which the service is
11 performed or otherwise delivered.

12 SECTION 119. Section 256.009, Transportation Code, is
13 amended to read as follows:

14 Sec. 256.009. REPORT TO COMPTROLLER. (a) Not later than
15 January 30 of each year, the county auditor or, if the county does
16 not have a county auditor, the official having the duties of the
17 county auditor shall file a report with the comptroller that
18 includes:

19 (1) an account of how the money allocated to a county
20 under Section 256.002 during the preceding year was spent;

21 (2) a description, including location, of any new
22 roads constructed in whole or in part with the money allocated to a
23 county under Section 256.002 during the preceding year;

24 (3) any other information related to the
25 administration of Sections 256.002 and 256.003 that the comptroller
26 requires; and

27 (4) [stating] the total amount of expenditures for

1 county road and bridge construction, maintenance, rehabilitation,
2 right-of-way acquisition, and utility construction and other
3 appropriate road expenditures of county funds in the preceding
4 county fiscal year that are required by the constitution or other
5 law to be spent on public roads or highways.

6 (b) The report must be in a form prescribed by the
7 comptroller.

8 (c) [~~(b)~~] The comptroller may distribute money under
9 Section 256.002(a) to a county only if the most recent report
10 required by Subsection (a) has been filed.

11 (d) A county official or employee shall provide to the
12 comptroller on request any information necessary to determine the
13 legality of the use of money allocated under Section 256.002.

14 SECTION 120. (a) The comptroller of public accounts shall
15 conduct a study of the economic and other costs to political
16 subdivisions of this state of changing the sourcing laws relating
17 to the sale of tangible personal property to comply with the
18 Streamlined Sales and Use Tax Agreement.

19 (b) The comptroller of public accounts may request from a
20 political subdivision of this state any information the comptroller
21 requires to complete the study, and the political subdivision shall
22 provide the requested information as soon as possible.

23 (c) Not later than December 31, 2004, the comptroller shall
24 provide to the lieutenant governor, speaker of the house of
25 representatives, and presiding officers of the senate and house
26 committees having primary jurisdiction over the comptroller a
27 report on the results of the study.

SECTION 121. The following are repealed:

(1) Section 44.901, Education Code, as amended by Chapter 1319, Acts of the 77th Legislature, Regular Session, 2001;

(2) Section 51.927, Education Code, as amended by Chapter 1319, Acts of the 77th Legislature, Regular Session, 2001;

(3) Section 395.103, Finance Code;

(4) Subchapter O, Chapter 403, Government Code;

(5) Section 403.403(f), Government Code;

(6) Section 403.408, Government Code;

(7) Section 403.413(f), Government Code;

(8) Section 609.515, Government Code;

(9) Section 659.131(10), Government Code;

(10) Section 659.146(b), Government Code;

(11) Section 659.152, Government Code;

(12) Section 815.211, Government Code;

(13) Section 840.210, Government Code;

(14) Section 2166.406, Government Code, as amended by Chapter 1319, Acts of the 77th Legislature, Regular Session, 2001;

(15) Section 2305.025, Government Code;

(16) Section 2305.032(c), Government Code;

(17) Section 2305.033(c), Government Code;

(18) Section 2305.073, Government Code;

(19) Section 2305.074, Government Code;

(20) Section 2305.076, Government Code;

(21) Article 4.74, Insurance Code;

(22) Section 1551.054, Insurance Code, as effective June 1, 2003;

1 (23) Section 302.003, Local Government Code, as
2 amended by Chapter 573, Acts of the 77th Legislature, Regular
3 Session, 2001;

4 (24) Section 111.207(d), Tax Code;

5 (25) Sections 112.058(b) and (c), Tax Code;

6 (26) Section 151.025(c), Tax Code;

7 (27) Section 151.326(c), Tax Code;

8 (28) Chapter 326, Tax Code;

9 (29) Sections 256.003(b) and (c), Transportation
10 Code; and

11 (30) Sections 1.02(b)-(i), Chapter 753, Acts of the
12 76th Legislature, Regular Session, 1999.

13 SECTION 122. (a) For the fiscal biennium beginning
14 September 1, 2003, the comptroller is appropriated from the general
15 revenue fund the amount needed to return any available cash that was
16 transferred to that fund from a fund outside the state treasury and
17 to maintain the equity of the fund from which the transfer was made,
18 as required by Section 403.092, Government Code, as amended by this
19 Act.

20 (a-1) Proceeds from bonds issued pursuant to Section
21 403.410, Government Code, and deposited in the Texas product
22 development fund are hereby appropriated to the office of the
23 governor to be used only for purposes specified in Subchapter P,
24 Chapter 403, Government Code, , Product Development and Small
25 Business Incubators, and Section 71, Article XVI, Texas
26 Constitution. All funds deposited in the Texas product development
27 fund for debt service payments pursuant to contractual agreements

1 between the Product Development and Small Business Incubator Board
2 and eligible entities receiving awards from the fund are hereby
3 appropriated.

4 (b) The changes in law made by this Act to Sections 54.619
5 and 54.624, Education Code, apply to each academic term or semester
6 that begins after the effective date of this Act, other than a term
7 or semester before the 2003 fall semester.

8 (c) The changes in law made by this Act to Section 403.1042,
9 Government Code, do not affect the entitlement of a member serving
10 on the tobacco settlement permanent trust account advisory
11 committee immediately before the effective date of this Act to
12 serve the remainder of the member's current term. As the terms of
13 the members of the tobacco settlement permanent trust account
14 investment advisory committee first expire after the effective date
15 of this Act, the entities authorized to appoint the committee
16 members under Section 403.1042(b), Government Code, as amended by
17 this Act, shall appoint their successors.

18 (d) Section 659.2531, Government Code, as added by this Act,
19 applies only to a transfer that takes effect on or after September
20 1, 2003. A transfer that takes effect before September 1, 2003, is
21 governed by the law in effect on the effective date of the transfer,
22 and the former law is continued in effect for that purpose. In this
23 subsection, "transfer" has the meaning assigned by Section
24 659.2531, Government Code, as added by this Act.

25 (e) The changes in law made by this Act to Section 659.255,
26 Government Code, apply only to a merit salary increase or a one-time
27 merit payment that takes effect or is made on or after September 1,

1 2003. A merit salary increase or a one-time merit payment that
2 takes effect or is made before September 1, 2003, is governed by the
3 law in effect on the date the increase takes effect or the payment
4 is made, and the former law is continued in effect for that purpose.

5 (f) The rate of interest that accrues on a payment that
6 becomes overdue on or after September 1, 2004, is the rate
7 determined under Section 2251.025(b), Government Code, as amended
8 by this Act. The rate of interest that accrues on a payment that
9 becomes overdue before September 1, 2004, is the rate determined
10 under the law in effect before July 1, 2004, and the former law is
11 continued in effect for that purpose.

12 (g) The changes in law made by this Act to Section 2252.903,
13 Government Code, apply only to a written contract that is entered
14 into on or after September 1, 2003. A written contract that is
15 entered into before September 1, 2003, is governed by the law in
16 effect on the date the contract is entered into, and the former law
17 is continued in effect for that purpose.

18 (h) The changes in law made by this Act to Section 74.103,
19 Property Code, apply only to an examination begun on or after
20 September 1, 2003. An examination begun before September 1, 2003,
21 is governed by the law in effect on the date the examination begins,
22 and the former law is continued in effect for that purpose.

23 (i) The changes in law made by this Act to Chapter 111, Tax
24 Code, apply only to a claim for a refund made on or after the
25 effective date of this Act, without regard to whether the taxes that
26 are the subject of the claim were due before, on, or after that
27 date.

1 (j) The changes in law made by this Act to Sections
2 153.119(d) and 153.222(d), Tax Code, apply only to fuel used on or
3 after September 1, 2003, for climate-control air conditioning or
4 heating in a motor vehicle. Fuel used before that date is governed
5 by the law in effect on the date the fuel is used, and that law is
6 continued in effect for that purpose.

7 SECTION 123. (a) Except as provided by this section, this
8 Act takes effect immediately if it receives a vote of two-thirds of
9 all the members elected to each house, as provided by Section 39,
10 Article III, Texas Constitution. If this Act does not receive the
11 vote necessary for immediate effect, this Act takes effect
12 September 1, 2003.

13 (b) The amendments by this Act to the following sections
14 take effect September 1, 2003:

15 (1) Section 14(e), Article 42.12, Code of Criminal
16 Procedure, as added by Chapter 1188, Acts of the 76th Legislature,
17 Regular Session, 1999;

18 (2) Section 19(f), Article 42.12, Code of Criminal
19 Procedure;

20 (3) Section 659.253, Government Code;

21 (4) Section 659.255, Government Code;

22 (5) Sections 2101.0115(a) and (b), Government Code;

23 (6) Section 2113.205(b), Government Code;

24 (7) Section 2252.903(e), Government Code;

25 (8) Section 74.103, Property Code;

26 (9) Section 74.501, Property Code;

27 (10) Section 112.058(a), Tax Code;

- (11) Section 153.119(d), Tax Code;
- (12) Section 153.222(d), Tax Code;
- (13) Section 201.057(i), Tax Code;
- (14) Section 201.101, Tax Code;
- (15) Section 201.102, Tax Code; and
- (16) Section 256.009, Transportation Code.

(c) The amendments by this Act to Section 2251.025(b), Government Code, and Sections 321.203 and 323.203, Tax Code, take effect July 1, 2004. Sections 151.103(d) and 151.202(c), Tax Code, as added by this Act, take effect July 1, 2004.

(d) The repeal by this Act of Section 395.103, Finance Code, and Sections 112.058(b) and (c), Tax Code, takes effect September 1, 2003.

(e) Sections 659.2531 and 659.262, Government Code, as added by this Act, take effect September 1, 2003.

(f) The amendments by this Act to the following sections take effect October 1, 2003:

- (1) Section 142.002, Tax Code;
- (2) Section 142.005, Tax Code;
- (3) Section 151.011(a), Tax Code;
- (4) Section 151.152(b), Tax Code;
- (5) Section 151.314, Tax Code;
- (6) Section 151.317, Tax Code;
- (7) Section 321.003, Tax Code;
- (8) Section 322.107, Tax Code; and
- (9) Section 323.003, Tax Code.

(g) Sections 142.0055, 142.011, and 151.012, Tax Code, as

1 added by this Act, take effect October 1, 2003.

2 (h) The repeal by this Act of the following provisions takes
3 effect October 1, 2003:

4 (1) Section 151.326(c), Tax Code; and

5 (2) Chapter 326, Tax Code.

6 (i) The repeal by this Act of Section 151.025(c), Tax Code,
7 takes effect July 1, 2003, if this Act receives a vote of two-thirds
8 of all the members elected to each house, as provided by Section 39,
9 Article III, Texas Constitution. If this Act does not receive the
10 vote necessary for effect on that date, the repeal of Section
11 151.025(c), Tax Code, takes effect October 1, 2003.

12 (j) Section 151.025(d), Tax Code, as added by this Act,
13 takes effect July 1, 2003, if this Act receives a vote of two-thirds
14 of all the members elected to each house, as provided by Section 39,
15 Article III, Texas Constitution. If this Act does not receive the
16 vote necessary for effect on that date, Section 151.025(d), Tax
17 Code, takes effect October 1, 2003.

H.B. No. 2425

President of the Senate

Speaker of the House

I certify that H.B. No. 2425 was passed by the House on May 12, 2003, by the following vote: Yeas 135, Nays 1, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2425 on May 29, 2003, by the following vote: Yeas 132, Nays 0, 4 present, not voting; and that the House adopted H.C.R. No. 290 authorizing certain corrections in H.B. No. 2425 on June 1, 2003, by a non-record vote, passed subject to the provisions of Article III, Section 49a, of the Constitution of the State of Texas.

Chief Clerk of the House

H.B. No. 2425

I certify that H.B. No. 2425 was passed by the Senate, with amendments, on May 27, 2003, by the following vote: Yeas 31, Nays 0; and that the Senate adopted H.C.R. No. 290 authorizing certain corrections in H.B. No. 2425 on June 2, 2003, by a viva-voce vote, passed subject to the provisions of Article III, Section 49a, of the Constitution of the State of Texas.

Secretary of the Senate

I certify that the amounts appropriated in the herein H.B. No. 2425, Regular Session of the 78th Legislature, are within amounts estimated to be available in the affected fund.

Certified _____

Comptroller of Public Accounts

APPROVED: _____

Date

Governor